

Contract # MA-060-20011103
Mobile Fingerprint Identification (ID) Solution using Ares App Software with Javelin Device

This Contract, hereinafter referred to as "Contract" is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, hereinafter referred to as "County," and InCadence Strategic Solutions Corporation, with a place of business at 10432 Balls Ford Road, Suite 120, Manassas, VA 20109, hereinafter referred to as "Contractor," with County and Contractor sometimes referred to as "Party", or collectively as "Parties."

ATTACHMENTS

This Contract is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Contract:

Attachment A – Scope of Services
Appendix A
Attachment B – Payment/Compensation
Attachment C –Escrow Agreement

RECITALS

WHEREAS, Contractor responded to County's Request for Proposal ("RFP") for Mobile Fingerprint ID Solution and represented that its proposed services shall meet or exceed the requirements and specifications of the RFP; and

WHEREAS, CONTRACTOR was acquired by Xator Corporation on April 30, 2020, and will operate as a subsidiary to its parent Xator Corporation; and

WHEREAS, Contractor agrees to provide Mobile Fingerprint ID Solution using Ares App Software with Javelin Device to the County as further set forth in the Scope of Work, attached hereto as Attachment A; and

WHEREAS, County agrees to pay Contractor based on the schedule of fees set forth in Payment and Pricing Provisions, attached hereto as Attachment B; and

WHEREAS, the County Board of Supervisors has authorized the Purchasing Agent or his designee to enter into a Contract for Mobile Fingerprint ID Solution using Ares App Software with Javelin Device with the Contractor;

NOW, THEREFORE, the Parties mutually agree as follows:

DEFINITIONS

Unless otherwise specified in the Statement of Work, the following terms shall be given the meaning shown, unless context requires otherwise.

"Acceptance Criteria" means the conditions that Software, Hardware or Applications must satisfy to be accepted by the County, or in the case of system-level functionality, the consuming System.

"Acceptance Tests" means those tests performed during the Performance Period which are intended to determine compliance of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment. Includes System Acceptance Tests and User Acceptance Tests.

"Application" means a computer program that is intended to be executed for the purpose of performing useful work for the user of the information being processed. Applications are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.

“Contractor” means the Contractor, subcontractors, agents, resellers, third parties and affiliates who are providing the services agreed to under the Contract.

“Data” - Any information, algorithms, or other content that the County, the County’s employees, agents and end users, review, receive, upload, create or modify using the Software and/or Hardware pursuant to this Contract, including but not limited to fingerprints and other biometric data, whether originating, stored, or transmitted to or from local, state or federal sources, including databases, Software, or systems. Data also includes user identification information and metadata which may contain Data or from which the County’s Data may be ascertainable. Non-Public Data shall include information considered to be privileged or confidential in nature and not subject to public availability. Personal Data shall include personal information, as defined by Civil Code Section 1798.3.

“Data Breach” - means any access, destruction, loss, theft, use, modification or disclosure of Data by an unauthorized party or that is in violation of Contract terms and/or applicable state or federal law.

“Deliverables” means Goods, Software, Information Technology, Hardware, and other items (e.g. Documentation) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.

“Documentation” or **“Documents”** means manuals and other materials necessary or useful to the County in its use or maintenance of the Equipment, Hardware or Software provided hereunder. Manuals and other materials customized for the County hereunder constitute Work Product if such materials are required by the Statement of Work.

“Encryption” - Conversion of plaintext to ciphertext through the use of a Federal Information Processing Standards (FIPS) validated cryptographic algorithm. [FIPS 140-2]

“Equipment” “is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or Subsystem, including its Hardware and Operating Software (if any).

“Goods” means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and telecommunications Equipment).

“Hardware” usually refers to computer Equipment and is contrasted with Software. See also Equipment and Machine.

“Human Error” means any action or inaction on the part of a Contractor’s employee, agent or contractor that prevents the accomplishment of the Software, Hardware, or System’s intended functions and the services specified in the Scope of Work.

“Machine” or **“Device”** means an individual unit of a Data Processing System or Subsystem, which may be separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcodes, and special features installed thereon and including any necessary Software, e.g., central processing unit, memory module, tape unit, card reader, etc., employed in making such change.

“Maintenance Coverage” or **“Maintenance”** means support, repair, and/or modification of Software or Hardware after delivery to correct faults or errors, delete obsolete capabilities, and/or enhance or improve capabilities, performance or other attributes, as specified in the Scope of Work.

“Security Incident” means the potentially unauthorized access to Personal Data or Non-Public Data within the possession or control of the Contractor. A Security Incident may or may not turn into a Data Breach.

“Software” is an all-inclusive term that refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Applications, and Program Products.

“System” means the complete collection of Hardware, Software and services as described in this Contract, integrated and functioning together, and performing in accordance with this Contract.

“Technical Failure” means a malfunction in the Contractor-supplied Hardware or Software that prevents the accomplishment of the services specified in the Scope of Work. A malfunction of the hardware prevents the accomplishment of the hardware’s intended functions and services specified in the Scope of Work. A malfunction of the software prevents the accomplishment of intended services even though the hardware may be functioning properly. Technical failures include, but are not limited to, an improper or incomplete conversion or upgrade of the hardware or software.

ARTICLES

General Terms and Conditions:

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to

enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.

- B. **Entire Contract:** This Contract contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or designee.
- C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.
- F. **Acceptance Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. **Warranty:** Contractor expressly warrants that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnitees as identified in paragraph "Z" below, and as more fully described in paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "Z" below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney's fees.
- I. **Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this

Contract nor any portion thereof may be assigned by Contractor without the express written consent of County. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

- J. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.
- K. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.
- L. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. **Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- N. **Performance Warranty:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.
- O. **Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If

Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims-made
Technology Errors & Omissions	\$1,000,000 per claims-made \$1,000,000 aggregate

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the *County of Orange its elected and appointed officials, officers, agents and employees* as Additional Insured's, or provide blanket coverage, which will state *AS REQUIRED BY WRITTEN CONTRACT.*
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement naming the *County of Orange, its elected and appointed officials, officers, agents and employees* as Additional Insured's for its vicarious liability.
- 2) A primary and non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
- 3) The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the *County of Orange, its elected and appointed officials, officers, agents and employees* or provide blanket coverage, which will state *AS REQUIRED BY WRITTEN CONTRACT.*

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

If Contractor's Professional Liability, Technology Errors & Omissions and/or Network Security & Privacy Liability are "Claims-Made" policy(ies), Contractor shall agree to maintain coverage for two (2) years following the completion of the Contract.

The Commercial General Liability policy shall contain a severability of interest's clause also known as a "separation of insured's" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- P. Changes: Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
- Q. Change of Ownership/Name, Litigation Status, Conflicts with County Interests: Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, the new owners shall be required under terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

- R. Force Majeure: Contractor shall not be assessed or be found in breach during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
- S. Confidentiality: Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- T. Compliance with Laws: Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, Contractor agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

- U. Freight: Prior to the County's express acceptance of delivery of products. Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- V. Severability: If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. Attorney Fees: In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney's fees, costs and expenses.
- X. Interpretation: This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.
- Y. Employee Eligibility Verification: The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- Z. Indemnification: Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.
- AA. Audits/Inspections: Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to

allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this agreement shall be forwarded to the County's project manager.

- BB. Expenditure Limit: The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.
- CC. Contingency of Funds: Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

Additional Terms and Conditions:

1. Scope of Contract: This Contract specifies the contractual terms and conditions by which the County will procure and receive services from Contractor as further detailed in the Scope of Services, identified and incorporated herein by this reference as "Attachment A."
2. Term of Contract: This Contract shall commence upon execution of all necessary signatures, and continue for three (3) calendar years from that date, unless otherwise terminated by County. This Contract may be renewed as set forth in paragraph 3 below.
3. Renewal: This Contract may be renewed by mutual written agreement of both Parties for seven (7) additional one (1) year terms. The County does not have to give reason if it elects not to renew. Renewal periods may be subject to approval by the County of Orange Board of Supervisors.
4. Adjustments – Scope of Work: No adjustments made to the Scope of Work will be authorized without prior written approval of the County assigned Deputy Purchasing Agent.
5. Breach of Contract: The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - a. Terminate the Contract immediately, pursuant to Section K herein;
 - b. Afford the Contractor written notice of the breach and ten calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - c. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - d. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
6. Civil Rights: Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
7. Conflict of Interest – Contractor's Personnel: The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier Contractors;

and third Parties associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.

8. Conflict of Interest – County Personnel: The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The contractor shall not, during the period of this contract, employ any County employee for any purpose.
9. Contractor's Project Manager and Key Personnel: Contractor shall appoint a Project Manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Project Manager, which consent shall not be unreasonably withheld.

The Contractor's Project Manager and key personnel shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. Key personnel are those individuals who report directly to the Contractor's Project Manager.

The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager from providing services to the County under this Contract. The County's Project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within five (5) business days after written notice by the County's Project Manager. The County's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

10. Contractor Personnel – Reference Checks: The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility anticipated under this Contract. Contractor's employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.
11. Contractor's Expense: The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this Contract. The County will not provide free parking for any service in the County Civic Center.
12. Contractor's Records: The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned DPA.
13. Conditions Affecting Work: The contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the contractor to do so will not relieve contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this contract, unless such understanding or representations by the County are expressly stated in the contract.
14. Data – Title To: All materials, documents, data or information obtained from the County data files or any County medium furnished to the contractor in the performance of this contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the contractor after completion or termination of this contract without the express written consent of the County.

All materials, documents, data or information, including copies, must be returned to the County at the end of this contract.

15. **Reprocurement Costs:** In case of Contract breach by Contractor, resulting in termination by the County, the County of Orange may procure the services from other sources. If the cost for those services is higher than under the terms of the existing Contract, Contractor will be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Contractor. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.
16. **Disputes – Contract:**
 - A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor’s Project Manager and the County’s Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:
 1. The Contractor shall submit to the agency/department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
 2. The Contractor’s written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.
 - B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor’s failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Deputy Purchasing Agent or his designee. If the County fails to render a decision within ninety (90) days after receipt of the Contractor’s demand, it shall be deemed a final decision adverse to the Contractor’s contentions. Nothing in this section shall be construed as affecting the County’s right to terminate the Contract for cause or termination for convenience as stated in section K herein.

17. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor’s reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after County approval thereof, County approval of Contractor’s reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.
18. **Equal Employment Opportunity:** The Contractor shall comply with U.S. Executive Order 11246 entitled, “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment

on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

19. Contractor Personnel – Drug-Free Workplace: The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:
- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).
 - b. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
 - i. The dangers of drug abuse in the workplace;
 - ii. The organization’s policy of maintaining a drug-free workplace;
 - iii. Any available counseling, rehabilitation and employee assistance programs; and
 - iv. Penalties that may be imposed upon employees for drug abuse violations.
 - c. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
 - i. Will receive a copy of the company’s drug-free policy statement; and
 - ii. Will agree to abide by the terms of the company’s statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County Contracts if the County determines that any of the following has occurred:

- a. The Contractor has made false certification, or
 - b. The Contractor violates the certification by failing to carry out the requirements as noted above.
20. EDD Independent Contractor Reporting Requirements: Effective January 1, 2001, the County of Orange is required to file federal Form 1099-Misc for services received from a “service provider” to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations. (See Exhibit D.)

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent contractors. An independent contractor is defined as “an individual who is

not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California.”

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at http://www.edd.ca.gov/Payroll_Taxes/FAQ-California_Independent_Contractor_Reporting.htm

21. News/Information Release: The contractor agrees that it will not issue any news releases in connection with either the award of this contract or any subsequent amendment of or effort under this agreement without first obtaining review and written approval of said news releases from the County through the County’s project manager.
22. Notices: Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the parties’ project managers’ routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

For Contractor: InCadence Strategic Solutions Corporation
10432 Balls Ford Road, Suite 120
Manassas, VA 20109
Attention: Anthony Iasso, President
Email: anthony@incadencecorp.com
Ph: 703-552-2812

InCadence Strategic Solutions Corporation
10432 Balls Ford Road, Suite 120
Manassas, VA 20109
Attention: Jesse Fullerton, Vice President, Contracts
Email: jfullerton@incadencecorp.com and
contracts@incadencecorp.com
Ph: 703-552-2812

For County: County of Orange
Sheriff-Coroner Department/Purchasing Unit
320 N. Flower St, 2nd Floor
Santa Ana, CA 92703
Attention: Lorena Quirarte, Supervising PCS
Email: lquirarte@ocsd.org

County of Orange
Sheriff-Coroner Department/Crime Lab Division
320 N. Flower St, 5th Floor
Santa Ana, CA 92703
Attention: Lisa Zinn, Asst. Director
Ph: 714-834-4510

23. Precedence: The Contract documents consist of this Contract and its attachments and exhibits. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the articles of this Contract, and then the exhibits and attachments.
24. Termination – Orderly: After receipt of a termination notice from the County of Orange, the Contractor shall submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
25. Usage: No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. The Contractor agrees to supply services requested, as needed by the County of Orange, at prices listed in the Contract, regardless of quantity requested.
26. Gratuities: The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract
27. County Cooperative Contract: The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use this Contract will be responsible for issuing their own purchase documents/price agreements, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any Contract entered into with another agency or entity that is entered into as an extension of this Contract a Contract clause that will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this contract. Failure to do so will be considered a material breach of this Contract and grounds for immediate Contract termination. The cooperative entities are responsible for obtaining all certificates of insurance and bonds required. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.

The Contractor shall be required to maintain a list of the cooperative entities using this Contract. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request.
28. Reports/Meetings: The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this contract. The County's project manager and the Contractor's project manager will meet on reasonable notice to discuss the Contractor's performance and progress under this contract. If requested, the Contractor's project manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this contract.

29. Security Requirements:

- A. Contractor shall, with respect to all employees of Contractor performing services hereunder:
1. Perform background checks as to past employment history.
 2. Inquire as to past criminal felony convictions.
 3. Ascertain that those employees who are required to drive in the course of performing services hereunder have valid California driver's licenses and no DUI convictions within two (2) years prior to commencement of services hereunder.
 4. Perform drug screening to determine that such employees are not users of illegal controlled substances as defined by federal law.
- B. Contractor shall not assign to County property any Contractor personnel as to whom the foregoing procedures indicate:
1. Inability or unwillingness to perform in a competent manner.
 2. Past criminal convictions for theft, burglary or conduct causing property damage or mental or physical harm to persons.
 3. Where such employee's duties include driving a vehicle, absence of a valid California driver's license or a DUI conviction within the prior two (2) years.
 4. Usage of illegal controlled substances as defined by federal law.
- C. If any of the problems identified with respect to Contractor's employees are discovered after assignment of an employee to County property, or if County otherwise reasonably deems an assigned employee unacceptable, Contractor shall remove and replace such employee at the County property.
- D. Nothing herein shall render any employee of Contractor an employee of County.
- E. The Contractor's Personnel Requirements – All employees must pass the County's background check and meet all requirements as set forth below:
1. All personnel to be employed in performance of the work under this Contract shall be subject to security clearance. Clearance must be updated and renewed every twelve (12) months from original date of clearance.
 2. No person, who is required to enter a secured facility of the Sheriff, shall be assigned to perform work under this contract that has not received prior clearance from the Sheriff-Coroner Department.
 3. Within fifteen (15) days of the effective date of this Contract, Contractor shall prepare and submit a complete and accurate "Contractor Security Clearance" information form for all Contractor's employee who will be working on or who will need access to the Sheriff-Coroner's facilities to perform work covered by this Contract. County project manager shall provide form(s) to Contractor's project manager. Contractor is also responsible for ensuring that anytime an employee is assigned to work on Sheriff-Coroner's facilities under this contract that a Security Clearance form is submitted and approved prior to that employee requiring access to such premises for providing services under this contract.
 4. Contractor shall inform employees assigned to perform work within secured facilities of the Sheriff-Coroner that the employee is required to inform Contractor if/when any information provided on the security clearance form changes. Contractor shall submit an updated security clearance form whenever there is a change in information provided by an employee. Contractor shall be responsible for ensuring to submit Security Clearance forms in order to renew the Security Clearance(s) every twelve months. Renewal forms shall be submitted at least ten (10) County working days prior to the expiration of an existing clearance; a security

clearance is valid for 12 months from the date of issuance. If Contractor is submitting an updated form due to a change in information, said form shall be submitted within in 10 county working days of the employer becoming aware of the updated information.

5. Contractor Security Clearance information forms will be provided by County Project Manager upon request and will be screened by the Sheriff-Coroner's Department.
6. Contractor Security Clearance information forms shall be thoroughly and accurately completed. Omissions or false statements, regardless of the nature or magnitude, may be grounds for denying clearance.
7. County will not give Contactor the reason an individual's clearance is denied, but will provide explanation to individual affected via U.S. Mail.

E. General Security Requirement-At Worksite:

1. When performing work at a Sheriff-Coroner facility, all work areas shall be secured prior to the end of each workday.
2. Workmen shall have no contact, either verbal or physical, with inmates in any facility while performing work under this contract. Specifically:
 - a. Do not give names or addresses to inmates.
 - b. Do not receive any names or addresses from inmates.
 - c. Do not disclose the identity of any inmate to anyone outside the facility.
 - d. Do not give any materials to inmates.
 - e. Do not receive any materials from inmates (including materials to be passed to another individual or inmate).
3. Contractor's personnel shall not smoke or use profanity or other inappropriate language while on site.
4. Contractor's personnel shall not enter the facility while under the influence of alcohol, illegal controlled substances as defined under federal law, or other intoxicants, and shall not have such materials in their possession.
5. Failure to comply with these requirements is a criminal act and can result in prosecution.
6. Contractor's personnel shall plan their activities to minimize the number of times they must enter and exit a facility, i.e., transport all tools, equipment, and materials needed for the day at the start of work and restrict all breaks to the absolute minimum.
7. Contractor's personnel shall follow any special security requirements issued by the on-site contact person or escort Deputy.
8. Contractor's personnel shall report either to the on-site contact person when leaving the facility, temporarily or at the end of the workday.
9. Contractor's personnel shall immediately report all accidents, spills, damage, unusual conditions and/or unusual activities to the on-site contact person or any Sheriff's Deputy.
10. Contractor's personnel shall securely close and check all gates and doors to ensure that they are tightly closed and locked as they enter and exit various areas of the County facilities.
11. Contractor's personnel shall restrict all activities to the immediate work site and adjacent assigned areas necessary to performing work under this Contract.
12. Contractor's personnel shall remain with the assigned escort at all times, unless otherwise directed by the on-site contact person.

- F. Potential Delays/Interruptions:
1. Contractor shall acknowledge that the primary purpose of the detention facilities is the safe and secure operation of those facilities.
 2. Contractor's personnel who enter a Sheriff facility but have not passed the security screening, or who have falsified the security screening information are subject to immediate removal from the facility. Contractor's personnel who are assigned to work in a Sheriff facility who are determined to have outstanding wants or warrants may be detained by the Sheriff.
 3. Contractor's personnel shall immediately comply with all directions and orders issued by Sheriff's personnel, other than changes regarding the quality or quantity of work, which will be controlled by County's project manager.
 4. Contractor's personnel may be delayed or denied access to the facility due to unforeseen events that may affect the availability of security escorts.
 5. Contractor's personnel may be ordered to leave a facility prior to the completion of their work or the end of the workday by unforeseen incidents occurring within secure environments. Such unforeseen incidents may also cause Contractor's personnel to be held inside the facility until the incident is resolved by the Sheriff's personnel.
 6. Contractor may be subject to an inventory requirement where the Contractor shall supply an inventory list of all tools. The Facility will use this list for verification of tools entering and exiting security. Any and all time required to comply with the tool inventory and control program will not be considered a compensable delay and no requests for equitable adjustment in time or additional compensation for this time will be considered.
30. Emergency/Declared Disaster Requirements: In the event of an emergency or if Orange County is declared a disaster area by the County, state, or federal government, this Contract may be subjected to unusual usage. Contractor shall provide all services to the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency or disaster conditions, and all terms and conditions related to pricing shall apply regardless of the circumstances except as otherwise set forth herein. If Contractor is unable to provide the services under the terms of this Contract, then Contractor shall provide proof of such disruption. Additional profit margin as a result of supplying services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned if applicable. All applicable invoices from the Contractor shall show both the emergency purchase order number, if any, and the Contract number.
31. Responding to Legal Requests: Contractor shall promptly notify the County upon receipt of any legal requests, including but not limited to subpoenas, court or administrative agency orders, service of process, or requests by any person or entity (other than Contractor's employees), which in any way might reasonably require access to the County's Data. Contractor shall notify the County by the fastest means available and also in writing, unless prohibited by law from providing such notification. Contractor shall provide such notification within forty-eight (48) hours after Contractor receives the request. Thereafter, Contractor shall comply with such legal requests only to the extent required by applicable law. In responding to legal requests, Contractor shall take measures to protect Personal Data or Non-Public Data, the disclosure of which would violate Contract terms, court orders, and/or applicable state or federal law. Such protective measures may include, but are not limited to, seeking protective orders or filing the Data under seal. Contractor agrees to furnish only that portion of the County Data that is legally required to be furnished, and to exercise commercially reasonable efforts to obtain assurance that confidentiality will be maintained for such data. Contractor shall not respond to legal requests directed to the County unless authorized in writing to do so by the County.
32. Personal Appearances: Upon request by the County, Contractor shall make appropriate employees available to appear in court, submit to examination under oath, and cooperate in the investigation or settlement of a claim. This applies in criminal, civil or administrative legal proceedings in response to

requests or demands for testimony or records concerning information acquired in the course of an employee performing official duties or because of the employee's official status regardless of whether the person would otherwise be subject to service of a subpoena or other legal process in the State of California.

33. **Preparation for Successor to the Contract:** At any time or times during the term, at the written request of County, Contractor must provide County with any information that County is entitled to receive under this Contract that County desires to use in preparing a request for proposal to solicit responses, or responding to proposals, for the purpose of entering into an agreement that would constitute the successor to this Contract. Such requested information may include, among other things, current and projected transactional or other relevant volumes, resource utilization and performance statistics and trends, forms utilization, and such other information, statistics, and materials related to the provision of the services or the use, operation, support, and maintenance of the software product as County reasonably deems necessary or appropriate.
34. **Bankruptcy:** All rights and licenses granted by Contractor under this Contract are and shall be deemed to be rights and licenses to “intellectual property,” and the subject matter of this Contract, including the Services, is and shall be deemed to be “embodiments” of “intellectual property” for purposes of and as such terms are used in and interpreted under section 365(n) of the United States Bankruptcy Code (“Code”) (11 U.S.C. section 365(n) (2010)). County has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to this Contract. Without limiting the generality of the foregoing, if Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to County’s rights of election, all rights and licenses granted to County under this Contract continue subject to the respective terms and conditions of this Contract, and are not affected, even by Contractor’s rejection of this Contract; and (b) County is entitled to prompt delivery of a complete duplicate of (or complete access to, as appropriate) the Software source code, object code and related documentation, if not already in County’s possession, unless Contractor elects to and does in fact continue to perform all of its obligations under this Contract.
35. **Notice Regarding Other Jurisdictions:** Contractor shall promptly notify the County Project Manager and County Counsel upon discovery or reasonable belief of the following: (a) Incident(s) known or reasonably known to have occurred in the provision of similar services in another jurisdiction; (b) any claim or action against, or any loss by, Contractor that involves or may reasonably be expected to involve similar services; (c) the initiation of any government investigation that may result in a finding that Contractor is not in compliance with all applicable federal, state and local laws.

Notice to County Counsel shall be provided to:

Leon Page
 Orange County Counsel
 333 W. Santa Ana Blvd., Ste. 407
 P.O. Box 1379
 Santa Ana, CA 92702

36. **County Data – Ownership and Use**
- a. The County will and does own all right, title and interest in Data that is related to the services provided by this Contract, including but not limited to, all materials, Documents, Data, reports, information, or other materials obtained from County or State data files or any County medium or furnished by or on behalf of County to Contractor in the performance of this Contract and created, generated or modified by County or by Contractor through the provision of services or the use of the Mobile Fingerprint ID Solution, including all intellectual property rights in or pertaining to the same (“County Data”). County Data also includes user identification information and metadata which may contain County Data or from which County Data may be ascertainable. To the extent there is any uncertainty as to whether Data constitutes County Data, the Data in question shall be treated as County Data. County Data shall be owned solely and exclusively by County and will at all times remain the property of County. Contractor acknowledges and agrees that, as between the Parties,

- County owns all right, title, and interest in, and all intellectual property rights in and to, all County Data.
- b. County Data may not be used or copied for direct or indirect use by Contractor, except as required in connection with performance of Contractor's duties under this Contract or as specifically directed by County in writing. Contractor shall not access County user accounts or County Data, except (1) in the course of the provision of services/operations of the Mobile Fingerprint ID Solution, (2) in response to service or technical issues, (3) as required by the express terms of this Contract, (4) as required by law. Nothing herein shall be construed to confer any license or right to the Data, including user tracking and exception Data within the system, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third party.
 - c. Unauthorized use of County Data by Contractor, its officers, directors, employees, or agents, or third parties is prohibited. For the purposes of this requirement, the phrase "unauthorized use" includes, but is not limited to: (1) using for any purpose other than as required under this Contract in connection with providing the services hereunder; (2) disclosing, selling, assigning, leasing, or otherwise providing to third parties; (3) modifying or merging it with other data; (4) data mining or processing of Data for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security or service delivery analysis that is not explicitly authorized; or (5) doing (or refraining from doing) any other thing that may in any manner adversely affect the integrity, security, or confidentiality of such County Data, other than as specified herein or as directed by County in writing.
 - d. All County Data, including copies, must be promptly returned or delivered to County upon County's written request or upon expiration or termination of this Contract, pursuant to Paragraph 25 of Additional Terms and Conditions, "Termination—Orderly." Contractor shall provide a notarized written statement to County certifying that all County Data have been returned or delivered to County, and that no County Data has been retained by Contractor. In addition, Contractor shall provide County upon request a copy of any County Data, reports and other documents or materials created by or obtained from County being stored by Contractor under this Contract.
 - e. Further, all Documents, Data, studies, reports, work product, or product created exclusively for County as a result of the performance of the Contract constitutes the property of County. Contractor irrevocably assigns, transfers and conveys to County all right, title and interest in and to all Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables. Contractor represents and warrants that County shall acquire good and clear title to all Deliverables, free from any claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of Contractor or of any third party. It shall be a breach of this Contract for Contractor to reproduce or use any Documents, Data, studies, reports, work product or product obtained from County or any documents created hereby whether such reproduction or use is for Contractor's own purposes or for those of any third party. At County's request, Contractor will execute and deliver such instruments and take such other action as may be requested by County to establish, perfect or protect County's rights in and to the Deliverables and to carry out the assignments, transfers and conveyances set forth in this paragraph.
37. Data Protection: Protection of personal privacy and Data shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of County Data at any time. Contractor shall safeguard the confidentiality, integrity, security, and availability of County Data. To this end, Contractor shall comply with the following conditions:
- a. In addition to any other rights and obligations set forth in the Contract in Paragraphs S (Confidentiality) and T (Compliance with Laws) and in the Scope of Work in Sections 3 (Application Documents) and 4.3 (Security), the Contractor shall comply as required with:
 - i. The California Information Practices Act (Civil Code Sections 1798 et seq).
 - ii. NIST Special Publication 800-53 Revision 4 or its successor.
 - iii. Privacy provisions of the Federal Privacy Act of 1974.
 - b. Contractor must keep and maintain County Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable

- law to avoid unauthorized access, use, disclosure, or loss, and Contractor may not otherwise use, disclose, modify, merge with other Data, commercially exploit, make available or make any other use of County Data or take, or refrain from taking, any other action that might, in any manner or form, adversely affect or jeopardize the integrity, security, or confidentiality of County Data, except as expressly permitted herein or as expressly directed by County in writing.
- c. At no time shall any Personal Data and Non-Public Data or processes which either belong to or are intended for the use of County or its officers, agents or employees be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction without the express written consent of the State except as permitted in Section 1 (County Data – Ownership and Use) above.
38. Encryption: Unless otherwise set forth in the Statement of Work, Personal Data and Non-Public Data shall be encrypted at rest, in use, and in transit with controlled access. The Statement of Work will specify which party is responsible for encryption and access control of the Data under Contract. If the Statement of Work and/or the Contract are silent, then Contractor is responsible for encryption and access control. Personal or Non-Public Data shall be encrypted in accordance with California State Administrative Manual 5350.1 and California Statewide Information Management Manual 5305-A.
39. Encryption/ID Authorization Codes:
- a. When Encryption/CPU Identification (ID) authorization codes are required to operate the Software, the Contractor will provide all codes to the County with delivery of the Software.
- b. If applicable, in case of an inoperative Hardware or change in designated Hardware, the Contractor will provide to County within twenty four (24) hours a temporary encryption/ID authorization code for use on temporarily authorized Hardware until the designated Hardware is returned to operation or until such time as a permanent encryption/ID authorization code is assigned to new Hardware.
40. Security Incident, Data Breach, Technical Failure, Human Error:
- a. Notwithstanding any other obligations Contractor may have under applicable law, Contractor agrees to notify the County within the earlier of either forty-eight (48) hours after discovery or reasonable belief of any Security Incident, Data Breach, Technical Failure, or Human Error (collectively “Incident(s)”), or two (2) hours after Contractor’s validation of an actual or suspected Incident(s). Notification must be given in the most expedient time possible and without unreasonable delay. Verbal notification may be followed by a written report. Contractor’s notification shall identify:
- i. The nature of the Incident(s);
 - ii. Any Data accessed, used, lost, modified, or disclosed;
 - iii. Any other impact the Incident(s) may or will have on County or individuals;
 - iv. The person(s) who accessed, used, lost, modified, or disclosed and/or received Data (if known);
 - v. What Contractor has done or will do to quarantine and mitigate the Incident(s), provided, however, that if the resolution path is unknown at the time notice is provided, Contractor shall promptly advise County that the resolution path is unknown and Contractor shall immediately work to determine the resolution path;
 - vi. Expected resolution time, if known at the time of notice; and
 - vii. What corrective action Contractor has taken or will take to prevent future Incident(s).
- b. Contractor will provide daily updates, or more frequently if required by the County, regarding findings and actions performed by Contractor until the Incident(s) has been effectively resolved to the County’s satisfaction.
- c. Contractor shall quarantine the Incident(s), ensure secure access to Data, and repair the system as needed.
- d. If the Contractor causes or knowingly experiences a breach of the security of the Data containing personal information, as defined by Civil Code Section 1798.3, Contractor shall immediately report any breach of security of such system to the County’s Project Manager following discovery or notification of the breach in the security of such Data. The County shall determine whether

notification to the individuals whose Data has been lost or breached is appropriate. If personal information of any resident of California was, or is reasonably believed to have been acquired by an unauthorized person as a result of a security breach of such system and Data that is not due to the fault of the County or any person or entity under the control of the County, Contractor shall bear any and all costs associated with the County's notification obligations and other obligations set forth in Civil Code Section 1798.29 (d) as well as the cost of credit monitoring, subject to the dollar limitation, if any. These costs may include, but are not limited to staff time, material costs, postage, media announcements, and other identifiable costs associated with the breach of the security of such personal information.

- e. Contractor shall conduct an investigation of the Incident(s) and shall share the report of the investigation with the County. The County and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the County, its agents and law enforcement.
- f. After any significant Data loss or Data Breach, or as a result of any disaster or catastrophic failure that results in significant Data loss or extended loss of access to Data or services, Contractor shall notify County by fastest means available and in writing, within the earlier of either twenty-four (24) hours after Contractor reasonably believes there has been such a Data loss, Data Breach, disaster, or catastrophic failure, or two (2) hours after Contractor's validation of an actual or suspected disaster or catastrophic failure. Contractor shall conduct an investigation of the disaster or catastrophic failure and shall inform County of its preliminary assessment of the scale and quantity of County Data loss, Contractor's intended actions to recover County Data from backups and mitigate any deleterious effect of County Data and Services loss, and corrective action Contractor will take to prevent future loss. Contractor will, at its expense, have an independent, industry-recognized, County-approved third party perform an information security audit. The audit results shall be shared with the County within seven (7) days of Contractor's receipt of such results. Upon Contractor receiving the results of the audit, Contractor will provide the County with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Contract. Contractor shall cooperate fully with County, its agents and law enforcement related to this failure.

42. Incident Resources: In addition to the other obligations that Contractor may have under the Contract, including Contractor's responsibilities for certain costs in connection with Incidents as provided in Section 7 (Incident Costs) below, Contractor shall, consistent with County's reasonable instructions, if any, which will be based on County's assessment of each Security Incident and that any harm that County reasonably anticipates may result therefrom:

- a. Assist in the identification of affected Persons and relevant jurisdictions;
- b. Allocate resources and training to manage inquiries;
- c. Provide affected Persons with such assistance (e.g., as to the availability and use of credit monitoring, etc.) as County deems reasonable under the circumstances;
- d. Promptly assist County with the delivery of electronic, hard copy, and telephone notifications to affected individuals, as provided to Supplier by County; and,
- e. Undertake a procedural review and audit to determine any appropriate corrective measures to avoid the recurrence of a similar situation, and promptly report to County all corrective actions taken.
- f. Supplier shall not make any announcement or publish or otherwise authorize any broadcast of any notice or information about an Incident without the prior written consent of and prior written Approval by the County of the content, media, and timing of any such announcement, publication, or broadcast.

43. Incident Costs: If an Incident results from Contractor's acts or omissions and County determines notice of the Incident is required to be provided to affected persons, Contractor shall provide the notification assistance described in Section (Security Incident Resources) above at no cost to County, including actions necessary to provide notices as required by law. Contractor will bear all reasonable costs and expenses for mitigation

actions incurred as a result of such Incident primarily caused directly or indirectly by Contractor, including the mitigation costs incurred in connection with opening and closing accounts, printing new checks, embossing new cards, providing notice, printing and mailing notices, answering inquiries by affected individuals, and obtaining credit monitoring services and identity theft insurance for no longer than a one (1) year period or such timeframe as may be required by applicable Law for those individuals who have been affected by such Incident. In the event there are damages and/or expenses, including attorney's fees, which Contractor is obligated to pay and pays under this section, and it is finally determined that liability for such damages and/or expenses, including attorney's fees, is attributable to acts or omissions by the County, County shall reimburse Contractor for such damages and/or expenses, including attorney's fees, paid by Contractor in proportion to the percentage of liability for such damages and/or expenses, including attorney's fees, finally determined to be attributed to the County.

44. Security Processes: The Contractor shall disclose its non-proprietary security processes and technical limitations to the County such that adequate protection and flexibility can be attained between the County and the Contractor. The County and the Contractor shall share responsibilities, as set forth in the SOW.
45. Security Failures: County has the right to immediately terminate this Contract with cause pursuant to Paragraph K, Termination, and to Contractor's payment of any pre-paid fees prorated to the date of termination if County in its sole discretion determines there is a Security Failure. A Security Failure means Contractor or its subcontractors, or the employees or agents of the foregoing, does not meet the security requirements of this Contract, including any backup, disaster recovery, or other policies, practices, or procedures related to security of County Data and County Resources. The remedy provided in this paragraph is not exclusive and is in addition to any other rights and remedies provided by law or under this Contract.
46. Software License: Contractor grants to County and County accepts from Contractor an irrevocable, royalty-free, non-exclusive license to use the Ares App Software and associated documentation set forth in this Contract plus any additional Software added by mutual agreement of the Parties during the term of this Contract. The license is extended to any contractors, subcontractors, outsourcing vendors, consultants and others who have a need to use the Software for the benefit of County.

The Ares App Software licensed by Contractor to County provides the functionality set forth the Scope of Work. Mobile Fingerprint ID Solution. If Contractor reduces or replaces the functionality contained in the licensed product, and provides this functionality as a separate or renamed product, then County is entitled to license such product for no additional license or maintenance fee. In addition, if Contractor releases a future product or other release with substantially the same functionality as the software licensed to County, and it ceases to provide maintenance for the older software product, then County has the option to exchange licenses for such replacement product or function at no additional charge.

There is no limit on the number of machines, number of locations, or size of processors on which County can operate the Ares App Software.

The license granted under this paragraph is governed by the terms and conditions of this Contract and not any separate license agreement or other similar agreement. All automated end-user agreements (including, but not limited to, click-throughs, shrinkwrap, or browse wrap and other non-negotiated terms and conditions provided with any of the Services) and documentation provided with any of the Services browse wrap) are specifically excluded and null and void. All terms and conditions in such agreements and documentation do not constitute a part or amendment of this Contract and shall have no force and effect and shall be non-binding on County, its employees, agents, and other authorized users, even if access to or use of such Service or documentation requires affirmative acceptance of such terms and conditions. For any automated end-user agreements that require the end user to manifest his or her assent to terms and conditions by clicking an "agree" or other affirmative button on a dialog box or pop-up window as part of the installation process or use of the software, clicking shall not represent acknowledgement or agreement to any terms and conditions

contained in those agreements. The sole purpose of the automated end-user agreement shall be to operate as the mechanism for the installation of the software.

47. **Software Maintenance:** Contractor must provide Maintenance Services, including software and/or hardware updates, upgrades and technical support services, as defined in the Scope of Work or other Attachment. The maintenance period begins at the end of the warranty period and continues on an annual basis for three (3) years. Contractor must provide Maintenance at the price set forth in Attachment B, Payment/Compensation. County may choose to cancel Maintenance or choose to delete a subset of licenses from Maintenance at the time of the Contract's renewal. County may resume Maintenance for lapsed periods by paying Contractor an amount no greater than the amount that would have been due if Maintenance had been continued over the lapsed period. Upon payment of such amounts for lapsed periods, Contractor agrees to provide County with the right to any updates and upgrades released during the lapsed period.
48. **Software License Fees and Charges:** Upon completion of installation and acceptance of Ares App Software by County, County will pay the license fee or recurring charge for the Software in the manner set forth in Attachment B, Payment/Compensation. County may purchase additional licenses for the Software during the term of this Contract at the same price offered by Contractor under the terms of this Contract.
49. **Future Releases:** Unless otherwise specifically provided in this Contract or the Statement of Work, if improved, upgraded, or enhanced versions of any software product under this Contract are developed by the Contractor and are made available to other licensees, they will be made available to the County at the County's option, provided such versions are operable on the same computer hardware configuration. These future releases shall be made available to County at no additional cost only if such releases are made available to other licensees at no additional cost. Otherwise, the charge for such upgrading to the later version of the Software will be the difference between the price established by the Contractor for the later version and the price specified herein or the then prevailing prices of the currently installed version.
50. **Software Ownership:** All intellectual property rights to software owned by Contractor prior to performance of this Contract and provided to County under this Contract remain with Contractor. All software (including inventions, discoveries, and improvements) developed pursuant to this Contract is the property of County. County agrees to grant a nonexclusive, royalty-free license for any such software to Contractor and agrees that Contractor may grant sublicenses of the software on the same royalty-free basis. If Contractor incorporates any of Contractor's software in any work product provided to County, Contractor will provide written notice to County of its incorporation in the work product and hereby conveys to County a non-exclusive, perpetual, cost-free license, and patent and copyright indemnity, for County to use that software for its intended purpose. This Contract shall not preclude the Contractor from developing materials outside this Contract which are competitive, irrespective of their similarity to materials which might be delivered to the County pursuant to this Contract.
51. **Software Escrow Agreement:** At no additional cost to County, Contractor will place in escrow with Rees Broome, PC ("Escrow Company"), which may be changed throughout the term of this Contract with the written concurrence of both Parties, copies of the most current version of the source and object code for the applicable software that is included as a part of the Services, as well as all necessary components, to ensure proper function of such software, including but not limited to any application program interfaces, configuration files, schematics of software components, build instructions, procedural instructions, and other documentation (collectively, the "Escrow Software"). The Escrow Software also includes all updates, improvements, and enhancements thereof from time to time developed by Contractor and which are necessary to internally support the Services for the benefit of County. County will be the sole designated beneficiary to the escrow agreement between Contractor and the Escrow Company and cannot be removed as the sole designated beneficiary without express prior written consent of County. Contractor must deposit the Escrow Software with the Escrow Company within thirty (30) calendar days from the Contract's effective date and from the date any update, improvement

and/or enhancement is provided to County and must notify County of the deposit within ten (10) business days of the deposit.

At the sole election of County, County has the right to: (a) perform, at County's cost and no more than annually, via a third-party escrow verification service that is independent of Contractor and the escrow agent, a verification of Contractor's compliance with its escrow obligations in this Contract including but not limited to a full usability test of the Escrow Software; and (b) obtain, at no additional cost to County and no more than annually, the full usability test results of the Escrow Software from tests performed by a third-party contracted by Contractor. Contractor agrees to reasonably cooperate with all third-parties contracted by County for purposes of this paragraph. Where County determines, in County's sole determination, that Contractor has failed to fulfill its escrow obligations, County shall, at County's sole election: (a) have, in addition to any other rights and remedies under this Contract or at law, the right to immediately terminate this Contract and be entitled to a return of any prepaid fees; and (b) be due from Contractor twenty-five percent (25%) of the annualized fees associated with the Services for the then-current contract year as liquidated damages and not as a penalty.

Upon the occurrence of a Triggering Event, County shall have the right to access and use the Escrow Software in accordance with its rights set forth in this Contract. For the purposes of this Contract, a "Triggering Event" shall mean any of the following: (i) Contractor commits an uncured (or incurable) material breach of its performance obligations under this Contract, (ii) Contractor makes an assignment for the benefit of creditors, (iii) Contractor files for bankruptcy (which is not dismissed within sixty (60) calendar days) or a complete liquidation or dissolution, (iv) Contractor has a custodian, trustee, receiver, or agent appointed to take possession of substantially all of its assets, (v) Contractor is declared or becomes 'insolvent' as that term is defined in Title 11 of the United States Code or analogous legislation in any other applicable jurisdiction; (vi) final, non-appealable judicial determination that Contractor has failed to continue to do business in the ordinary course; (vii) condition has occurred that materially and adversely impacts Contractor's ability to support the Escrow Software as required in this Contract and Contractor has failed to cure such condition within thirty (30) calendar days from the date of receipt by Contractor of written notice of such condition; (viii) Contractor, or its successor in interest, no longer provides support for the most recent and immediate prior release of the Escrow Software; or (ix) Contractor, or its successor in interest, discontinues developing and manufacturing the Escrow Software.

The software escrow agreement ("Escrow Agreement") with the Escrow Company, which is attached hereto as Attachment D, and incorporated herein by reference, must set forth the terms and conditions stated herein.

52. Software Escrow License: Contractor grants to County a perpetual, worldwide, non-exclusive, irrevocable, fully paid-up, transferable license to use the Escrow Software upon the occurrence of a Triggering Event as set forth in the Escrow Agreement (the "Escrow License"). County is entitled to procure maintenance and support services from third parties and has the right to sublicense to such third parties the right to use such escrowed materials for the limited purpose of providing such services to County.
53. Right to Copy or Modify: Any Software provided by Contractor in machine-readable format may be copied, in whole or in part, in printed or machine-readable format for use by County with the designated hardware/CPU, to perform one-time benchmark tests, for archival or emergency restart purposes, to replace a worn copy, to understand the contents of such machine-readable material, or to modify the Software as provided below; provided, however, that no more than the number of printed copies and machine-readable copies as specified in Attachment A, Scope of Work, will be in existence under this Contract at any one time without the express prior written consent of Contractor. Such consent shall not be unreasonably withheld by Contractor. The original and any copies of the Software, in whole or in part, which are made hereunder shall be the property of Contractor.

County agrees to keep any such copies and the original at a Contractor and County mutually designated County location, except that County may transport or transmit a copy of the original of any Software to

another County location for backup use when required by CPU malfunction, provided the copy or the original is destroyed or returned to the designated location when the malfunction is corrected.

County may modify any non-personal computer software product in machine-readable format for its own use and merge it into other program material. Any portion of the Software included in any merged program material shall be used only on the designated CPUs and shall be subject to the terms and conditions of this Contract.

54. Inspection, Acceptance and Rejection: Unless otherwise specified in the Statement of Work:
- a. When acquiring Hardware or Software, the County shall rely on Contractor's existing quality assurance system as a substitute for County inspection and testing. For all other acquisitions, Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the County covering Deliverables and services under this Contract and will tender to the County only those Deliverables that have been inspected and found to conform to this Contract's requirements. The Contractor will keep records evidencing inspections and their result, and will make these records available to the County during Contract performance and for three years after final payment. The Contractor shall permit the County to review procedures, practices, processes, and related documents to determine the acceptability of the Contractor's quality assurance System or other similar business practices related to performance of the Contract.
 - b. All Deliverables may be subject to inspection and test by the County or its authorized representatives.
 - c. The Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
 - d. Subject to subsection 16 (a) above, all Deliverables may be subject to final inspection, test and acceptance by the County at destination, notwithstanding any payment or inspection at source.
 - e. The County shall give written notice of rejection of Deliverables delivered or services performed hereunder within a reasonable time after receipt of such Deliverables or performance of such services. Such notice of rejection will state the respects in which the Deliverables do not substantially conform to their specifications.
55. Acceptance Testing: Contractor must provide to County all Deliverables in conformity with all requirements, specifications, Acceptance Criteria, and time periods in this Contract. Contractor must at all times utilize complete and thorough Acceptance Testing procedures and appropriate Acceptance Criteria, all of which are subject to review and approval by the County's Project Manager, and no such activities are deemed completed until all Acceptance Criteria, whether set forth in this Contract or mutually agreed upon by the Parties in writing, are successfully met and accepted by County's Project Manager.
- a. Acceptance Testing: Each Deliverable set forth in the Scope of Work is subject to Acceptance Testing by County to verify the Deliverable satisfies the Acceptance Criteria. Following Contractor's notification to County that Contractor has completed any component or Deliverable identified in this Contract, at a mutually agreed scheduled time thereafter, County shall begin testing the component or Deliverable to determine whether such component or Deliverable conforms to the Acceptance Criteria as described in the Scope of Work.
 - b. Acceptance Criteria include the requirement that the applicable Deliverable or Services (and all related or dependent Deliverables or Services): (i) has been completed and delivered to County, as applicable; (ii) meets or exceeds all functional, technical, and other requirements and specifications in this Contract for such Deliverable or Service; (iii) in the case of a Software Deliverable, successfully completes all applicable quality assurance and related tests; (iv) has been properly and fully documented, and (v) conforms to such other criteria as may be developed and agreed upon in writing by the Parties.
 - c. After County has completed such testing or upon expiration of the agreed-upon testing period (the "Acceptance Testing Period"), County shall notify Contractor in writing either that the component or Deliverable: (a) meets the Acceptance Criteria and that acceptance of such component or Deliverable has occurred ("Acceptance"); or (b) does not meet the Acceptance Criteria and the reasons therefor. If the component or Deliverable is identified as being part of a larger, integrated system being

developed thereunder, then any Acceptance under the terms of this subsection shall be understood as being conditional acceptance ("Conditional Acceptance"), and such component or Deliverable shall be subject to Final Acceptance, as described below.

- d. Cure: If County determines that a component or Deliverable does not conform to the applicable Acceptance Criteria, and that it is in County's interest to allow Contractor time to correct the problem, County shall deliver to Contractor a written description of the nonconformity (the "Exception Report"). Within ten (10) calendar days following receipt of the Exception Report, Contractor shall:
 - (a) perform a Root Cause Analysis to identify the cause of the nonconformity;
 - (b) provide County with a written report detailing the cause of, and procedure for correcting, such nonconformity;
 - (c) provide County with satisfactory evidence that such nonconformity will not recur; and
 - (d) use commercially reasonable efforts to correct all errors reasonably requested by County and accepted by Contractor; provided, however, that if the nonconformity of errors is incapable of cure within such ten (10) calendar day period then, within such ten (10) calendar day period, Contractor shall present to County a mutually agreeable plan to cure such nonconformity within a reasonable amount of time. Upon Contractor's notice to County that Contractor has cured any such nonconformity, County shall re-test the defective component or Deliverable for an additional testing period of up to thirty (30) calendar days or such other period as the Parties may mutually agree upon in writing, at the end of which period the process described in subsection (a.) above shall be repeated. In the event County rejects the component or Deliverable a second time and Contractor disagrees with such rejection, then the Parties shall escalate the issue(s) to senior management of both Parties for mutual resolution.
- e. System Integration Testing: As part of the System Acceptance Test specified in the Scope of Work, Contractor must perform System Integration testing before notifying County that any Deliverable or component of a Deliverable is ready for Acceptance Testing. Contractor must mitigate at its own expense any Deliverable or component of a Deliverable that does not meet the Acceptance Criteria during System Integration testing.
- f. Final Acceptance: Once all the Deliverables or all components of a Deliverable receive Conditional Acceptance, County will begin testing all the Deliverables or all components of a Deliverable to determine whether such Deliverables or all the components perform as an integrated whole in accordance with the Acceptance Criteria. After County has completed such testing or upon expiration of the agreed-upon testing period (the "Final Acceptance Testing Period"), County will notify Contractor in writing that the Deliverables and all components that are a part thereof:
 - (a) meet the Acceptance Criteria and that final acceptance of the System and such components and Deliverables has occurred ("Final Acceptance"); or
 - (b) do not meet the Acceptance Criteria and the reasons therefore. If County determines that the Acceptance Criteria have not been so met, the process described in subsection (b) above shall be initiated, with all references to "component or Deliverable" being references to the "System," and all references to the "Acceptance Testing Period" being references to the "Final Acceptance Testing Period." Neither Conditional Acceptance, Acceptance nor Final Acceptance by County shall constitute a waiver by County of any right to assert claims based upon defects not discernible through conduct of the applicable test procedures and subsequently discovered in a component or Deliverable or the System following County's Final Acceptance thereof. Nothing else, including County's use of the System, or any component thereof, shall constitute Final Acceptance, affect any rights and remedies that may be available to County and/or constitute or result in "acceptance" under general contract law, any state uniform commercial code or any other law.

56. Compatibility of Resources: All Services, software, assets, hardware, equipment, and other resources and materials provided by Contractor to County, otherwise utilized by Contractor, or approved by Contractor for utilization by County, in connection with this Contract, (collectively, the "Contractor Resources") must be successfully and fully integrated and interfaced by Contractor and must be compatible with all applicable County software, systems, items, and other resources owned by or leased or licensed to County or that are provided to County by third party Contractors (collectively, the "County Resources"). To the extent any interfaces need to be developed or modified in order for the Contractor Resources to integrate fully and successfully and be compatible with the County Resources, Contractor is responsible for the development or

modification of such interfaces and for such integration, and all such activities are deemed to be Services within the scope of this Contract.

57. Documentation:

- a. The Contractor agrees to provide to the County, at no charge, all Documentation as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the County in its use of the Hardware or Software provided hereunder. At no additional charge to County, Contractor shall provide County with electronic copies of Documentation developed for County pursuant to this Contract (or otherwise required to be provided to County under this Contract and which Contractor is authorized to provide) in an editable format, as requested by County, to enable County to fully utilize, as permitted under this Contract, the Services, Equipment, and Software. The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.
- b. If the Contractor is unable to perform maintenance or the County desires to perform its own maintenance on Equipment purchased under this Contract then upon written notice by the County the Contractor will provide at Contractor's then current rates and fees adequate and reasonable assistance including relevant Documentation to allow the County to maintain the Equipment based on the Contractor's methodology. The Contractor agrees that the County may reproduce such Documentation for its own use in maintaining the Equipment. If the Contractor is unable to perform maintenance, the Contractor agrees to license any other Contractor that the County may have hired to maintain the Equipment to use the above noted Documentation. The County agrees to include the Contractor's copyright notice on any such Documentation reproduced, in accordance with copyright instructions to be provided by the Contractor.

58. Rights in Work Product:

- a. All inventions, discoveries, intellectual property, technical communications and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including the Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be the Contractor's exclusive property. The provisions of this sub-section a) may be revised in a Statement of Work.
- b. Software and other materials developed or otherwise obtained by or for the Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If the Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Section 37 will be construed to interfere with the Contractor's or its affiliates' ownership of Pre-Existing Materials.
- c. The County will have Government Purpose Rights to the Work Product as Deliverable or delivered to the County hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the County for any County government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any County government purpose. Such recipients of the Work Product may include, without limitation, County Contractors, California local governments, the U.S. federal government, and the County and local governments of other states. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.
- d. The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Contract by the Contractor or jointly by the Contractor and the County may be used by either party without obligation of notice or accounting.

- e. This Contract shall not preclude the Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the County pursuant to this Contract.
59. **Responsibilities and Uptime Guarantee:** The Contractor shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environment are the responsibility of the Contractor. The system shall be available 24/7/365 (with agreed-upon maintenance downtime), and shall provide service to customers as defined in the Scope of Work.
60. **Service Level Commitment:** Except as otherwise specified in this Contract, from and after the Contract Effective Date, Contractor must perform the Services at levels that are equal to or better than the Service Level Requirements (“SLR”) applicable to such Services as stated in the Scope of Work, time being of the essence. Contractor is responsible for meeting or exceeding the applicable SLRs even where doing so is dependent on the provision of Services by subcontractors or other non-contractor personnel. Any resources utilized by Contractor pursuant to the terms hereof must incorporate methods permitting measurement of all performance-related Service Levels. Contractor must measure and compare the actual or observed performance resulting from Contractor’s performance of the services with the Service Levels during each month. Contractor must prepare and deliver or make available to the County’s Project Manager by the tenth (10th) business day of the following month, a Service Level report in a format to be agreed to by the County’s Project Manager and the Contractor’s Project Manager.
61. **Root Cause Analysis, Predictive Analysis and Resolution:**
- a. **Process:** Upon Contractor’s discovery of or, if earlier, Contractor’s receipt of a notice from County stating Contractor’s failure to meet a SLR or to provide the Services in this Contract, Contractor must comply with and follow the process in this paragraph entirely at Contractor’s expense. Contractor must, within ten (10) calendar days of discovery or of receipt of County’s notice: (a) perform a Root Cause Analysis to identify why the SLR was not met or the Services were not performed; (b) provide County with a written report detailing why the SLR was not met or the Services were not performed and Contractor’s procedure to correct the issue; (c) provide County with satisfactory evidence that such issue will not recur; and (d) either cure the issue or present to County a mutually agreeable plan to cure such nonconformity within a reasonable amount of time.
- b. **Pending Disputes:** Unless otherwise directed by County, and notwithstanding the pendency of any disagreement or Root Cause Analysis as to the cause of a defect, malfunction, or difficulty, Contractor must take prompt and reasonable steps to correct such defect, malfunction, or difficulty at its sole cost.
62. **Corrective Action:** In the event any goods or service provided by the Contractor in the performance of the Contract should fail to conform to the requirements in this Contract, it shall become the duty of the Contractor to immediately advise the County of the failure and correct the performance of goods or services, without expense to the County. If corrective action (including but not limited to patches, bug fixes, updates) is taken by the Contractor in the provision of similar Mobile Fingerprint ID services in other jurisdictions, such corrective action shall be provided to the County at no additional cost if such corrective action is needed for the Contractor to meet its obligations under this Contract.

-Signature Page to Follow-

SIGNATURE PAGE

The Parties hereto have executed this Contract # MA-060-20011103 for Mobile Fingerprint Identification (ID) Solution using Ares App Software with Javelin Device on the dates shown opposite their respective signatures below

Contractor*: InCadence Strategic Solutions Corporation

By: Jesse Fullerton Title: Vice President, Contracts
Print Name: Jesse Fullerton Date: 23 June 2020

Contractor*: InCadence Strategic Solutions Corporation

By: Don Acker Title: Chief Financial Officer
Print Name: Don Acker Date: 23 June 2020

**If the contracting party is a corporation, (2) two signatures are required: (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.*

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Of Orange

A political subdivision of the State of California



Sheriff-Coroner Department

By: _____ Title: _____
Print Name: _____ Date: _____

Approved by the Board of Supervisors: _____

Approved as to Form
Office of the County Counsel
Orange County, California

By: [Signature]
Deputy

ATTACHMENT A SCOPE OF WORK

Mobile Fingerprint Identification (ID) Solution using Ares App Software with Javelin Device

1. Introduction

1.1. Scope

This Scope of Work (SOW) defines the work to be performed by Contractor, which is responsible for providing the equipment, materials, personnel, support, training, integration, and maintenance of a new Orange County Mobile Identification (Mobile ID) solution using Ares App Software with Javelin Device.

1.2. Milestones

There are three (3) Milestones for this project. Upon successful completion of each Milestone, the Contractor will be paid a percentage of the total price for the design and deployment phase (“D&D Phase”) of this Contract, as indicated below. Successful completion of a Milestone requires acceptance by the Orange County Crime Lab (OCCL) of all Contract deliverables associated with the Milestone review and deliverables that are due at any time prior to that review. The Milestones are defined as follows:

- Milestone 1 (20%) – Successful completion of System Design Review (see SOW, Section 5, System Design)
- Milestone 2 (35%) – Successful completion of Phases I-IV of Deployment (see SOW, Section 4.2, Delivery/Deployment)
- Milestone 3 (45%) – Successful completion of Phases II-IV and System Acceptance Review (see SOW, Section 4.3.2, Acceptance)

In addition, there are several deliverables for this project as specified in Appendix A, List of Deliverables (referenced herein as OC-01, OC,-02, etc.). The Parties recognize and agree that time is of the essence with regard to the accomplishment of those tasks and activities designated as Milestones and Deliverables. Therefore, if Contractor fails, or if County reasonably determines that Contractor is likely to fail, to meet a due date for a Milestone or Deliverable, then, in addition to any other rights and remedies that may be available to the County in accordance with this Contract, Contractor shall, at County’s option and at no additional cost to County, provide such additional personnel as may be required or necessary to accomplish all activities, tasks, and Services that were associated with such Milestone or Deliverable either: (A) as soon as practicable, if Contractor has already failed to meet such Milestone or Deliverable due date; or, (B) by the due date corresponding thereto, as specified in the Contract, if such date has not yet passed.

Contractor shall provide a no-cost warranty period of three (3) years to begin after System Acceptance. After the warranty expires, Contractor shall provide maintenance and support of the systems in the maintenance phase of the contract. The warranty period may begin earlier for portions of the machines/systems that pass User Acceptance Test, in accordance with section 4.3.2., but Contractor shall provide coterminous warranties regardless of when the warranty may begin such that the maintenance phase will commence for all machines/systems at the same time. All maintenance terms, conditions, and pricing are included in this Contract. At the end of the initial Contract term, OCSD expects to renew the Contract limiting the scope to the appropriate terms of a maintenance phase (e.g. performance requirements, maintenance terms).

2. Applicable Documents

The Contractor shall comply with the requirements set forth in the current applicable local, state, and federal specifications for mobile biometric transmissions. Throughout this effort, the Contractor or the OCCL may propose

following newer standards and their associated data items that replace or supersede those below. To substitute newer standards and their associated data items the Contractor shall: 1) identify existing standards and data items to be replaced; 2) identify new standards and associated data items proposed for use; 3) provide a rationale for using the new items including cost, schedule, performance, and supportability impact; and 4) receive OCCL written approval. Substitution of newer standards and associated data items during the Contract term shall may only be done pursuant to the Contract terms contained herein, including but not limited to Paragraph C, Amendments, and Paragraph P, Changes.

2.1. Reference Documents

- CA DOJ Mobile ID Fingerprint Device - Best Practice Requirements, dated 01/05/2011
- CA DOJ Mobile ID Security Requirements NISU Version 10, dated 02/2011
- Cal DOJ Mobile ID Test Plan Version 1.3, dated 09/02/2016
- Mobile ID Device Best Practice Recommendation Version 2.1, NIST 500-280 V2.1
- AG Mobile ID Letter to California Law Enforcement Agencies dated 01/05/2011
- FBI Electronic Biometric Transmission Specification (EBTS) With Technical and Operational Update (TOU) Version 10.0.8
- FBI CJIS Security Policy (latest version)
- Federal Information Processing Standard (FIPS) 140-2
- NGI Repository for Individuals of Special Concern (RISC) Implementation Guide (NGI-DOC-02406-2.00)
- NIST ANSI/NIST-ITL 1-2011: UPDATE 2015
- Orange County Interface Requirements Specification/Interface Design Document (Mobile Vendor copy)
- Orange County ABI System Mobile Gateway Interface Control Document

3. Project Management

The Contractor is responsible for providing appropriate and sufficient project management services to plan, monitor, report, track, and manage the successful execution of the Contract.

All work shall be performed within the territory of the United States and shall be performed by United States citizens or Lawful Permanent Residents of the United States. Data and information provided by the OCCL shall not be communicated to anyone who is not a United States citizen or Lawful Permanent Resident of the United States.

Once the team has been developed with staff identified and their individual roles relating to the project, Contractor shall notify the County's project manager. Contractor shall also notify County's project manager of any changes to the team of staff within three (3) business days of the change.

3.1. Project Management Plan

The Contractor shall develop and maintain the Project Management Plan (PMP, OC-01). The PMP shall provide details on activities that will be completed in the pre-maintenance phases of the Contract. The PMP will:

- Establish the project organization, structure, authority, roles, responsibilities, and internal reporting relationships;
- Define the interfaces between the Contractor and OCCL project management;
- Establish reporting mechanisms and documentation;
- Identify Contractor resources (requirements and assignment);
- Establish project management procedures and policies;
- Incorporate the project Master Schedule;

- Identify any constraints or assumptions.

3.1.1. Master Schedule

The Master Schedule (MS, OC-02) is a complete and thorough schedule containing the detailed tasks necessary to ensure successful program execution, including all dependencies and inter-task relationships. The MS shall be traceable to the SOW and all development, test, and deployment plans required by the Contract. The MS shall be used to verify achievability of Contract objectives, to evaluate progress toward meeting program objectives, and to integrate the program schedule activities with all program components.

The MS shall contain the Contract milestones, accomplishments, and discrete tasks/activities from Contract award to the completion of the User Acceptance phase of the Contract. It shall display summary, intermediate, and detailed schedules, and shall accommodate periodic analysis of progress to date.

The MS shall include significant external interfaces and critical items from suppliers, teammates, or other detailed schedules that depict significant and/or critical elements and OCCL furnished equipment or information dependencies for the entire contractual effort in a single integrated schedule. The determination of significant external interfaces and critical items shall be agreed to by the OCCL and the Contractor.

The MS shall be kept up to date by the Contractor and shall be submitted to the County Project Manager no less frequently than monthly. The MS shall be formatted as a Microsoft Office Project 2007 schedule. This plan will form the basis for discussions at each status meeting.

Meetings and reviews shall be at the Orange County Crime Lab (“OCCL facility”) unless otherwise designated or agreed to by OCCL.

3.2. Project Reporting and Reviews

The Contractor shall conduct management and technical reviews and other meetings throughout execution of the Contract. Attendees at management and technical reviews and meetings will include OCCL project personnel, OCCL support contractors, the Contractor, and subcontractors as necessary to meet the objectives of the meeting or review. Contractor shall produce meeting agendas, presentations materials, and detailed minutes for each meeting (OC-03).

The Contractor shall participate in a project kickoff meeting at the OCCL facility within ten (10) working days after Contract award. The purpose of the meeting is to introduce key OCCL and Contractor personnel, to discuss plans, to discuss the status of any risks or issues, and to address any other issues OCCL project management or the Contractor wish to discuss.

3.3. Security

The Contractor shall provide and implement a security program in compliance with the latest version of Criminal Justice Information Services (CJIS) Security Policy. All Contractor supplied personnel, facilities or systems shall provide protection and control of all OCCL provided information, equipment, documentation, and network access pursuant to federal, state and local laws and standards as stated herein, including but not limited to, General Terms and Conditions, Paragraph S (Confidentiality), Paragraph T (Compliance with Laws); Additional Terms and Conditions, Section 14 (Data-Title To), Section 36 (County Data – Ownership and Use), Section 37 (Data Protection), Section 38 (Encryption), Section 40 (Security Incident, Data Breach, Technical Failure, Human Error); and Scope of Work, Section 2.1 (Reference Documents) and Section 5.3.2 (System and Security Requirements).

4. Implementation, Delivery/Deployment, and Acceptance

4.1. Implementation

Contractor shall provide onsite system implementation services, including but not limited to system setup, installation, testing, training, baseline customizations and/or baseline interfaces, and other services through final acceptance of the system, as required for the successful implementation of the system, as specified in this SOW and elsewhere in the Contract.

Contractor shall provide the licenses for all system software, system hardware, and associated system implementation services (OC-08). Contractor shall provide all equipment and software necessary to satisfy the system requirements for managing devices at all operational sites. Contractor shall develop the OC Mobile ID Bill of Materials (OC-04).

Contractor shall provide County with a user guides and training materials (OC-9, OC-10). Contractor shall provide the documentation in both electronic and hard-copy formats.

OCCL staff will be on site to assist the Contractor during system integration, testing, software installation, deployment and training. Contractor must coordinate with OCCL staff for all on site work.

4.2. Delivery/Deployment

All deliverables shall be subject to County approval and acceptance in order to satisfy the terms and conditions of the Contract. Unless otherwise noted, all electronic documents shall be delivered in Microsoft Word 2007.

The County intends to distribute a total of 450-500 devices to the County's thirty five (35) AFIS member cities, which includes thirty-seven (37) different locations and twenty-five (25) unique ORIs. The distribution will range from one (1) to two (2) devices for smaller police agencies/cities to over one hundred (100) devices across all of the different jurisdictions of the Orange County Sheriff's Department.

The County anticipates Deployment of the devices to occur in phases. Devices will need to be integrated with each Agency's cellular/data network and that network integrated with the County. The County and Contractor will work together on a detailed phased Deployment schedule based on the following:

- a. Phase I Deployment - 70 Devices, 7 Agencies/Locations
- b. Phase II Deployment - 120 devices, 10 new Agencies/Locations
- c. Phase III Deployment - 130 devices, 10 new Agencies/Locations
- d. Phase IV Deployment - 130 devices, 10 new Agencies/Locations

Additional devices may be added at County's request for an additional cost as specified in Attachment B.

4.3. Acceptance

The Contractor shall develop a Test Plan (OC-05) in cooperation with the County for the System Acceptance Test (SAT). The Contractor shall conduct a Test Readiness Review (TRR) to demonstrate to OCCL their readiness to conduct the tests. At the culmination of the Contractor presentations during the reviews, and after approval of the corresponding test procedures, the OCCL Project Manager may authorize the Contractor to conduct the tests. OCCL will observe the tests, using the approved test procedures. The Contractor shall document the results of the tests and deliver a SAT Report (OC-06).

4.3.1. System Acceptance Test

The Contractor shall conduct the System Acceptance Test. The SAT shall include thorough testing of final configurations. The purpose of the SAT is to demonstrate that the equipment was installed correctly and operates at the functional and performance levels required by this SOW and to verify that standards-compliant end-to-end workflows execute as anticipated.

SAT shall include systematic end to end testing for local, state, and federal searches, including all response message types.

4.3.2. User Acceptance Test

The OCCL will conduct User Acceptance Test (UAT). The purpose of UAT is to demonstrate that the system, the supporting documentation, and the user training are adequate for their intended purpose. The equipment must function properly for all workflows and must be successfully interfaced with the Mobile Device Management system and the OC ABI System. All functions required by the County, or additional functions proposed by the Contractor, must be demonstrated prior to device acceptance.

The OCCL will conduct a Test Readiness Review to assess OCCL's readiness to conduct UAT. If the OCCL Project Manager determines that OCCL is ready to conduct UAT, she will direct that the UAT period begin. UAT will be conducted for a period of at least thirty (30) days for each device in production. Completion of UAT will be determined only after all systems have been installed and operating in a production environment for 30 days. Upon completion of UAT, the OCCL will conduct a System Acceptance Review (SAR) to assess whether the systems, documentation, and training are adequate to allow OCCL to declare the systems fully operational and accepted.

The Contractor shall provide support throughout the period of UAT. The support personnel shall be able to assist users in the performance of user functions and shall document problems encountered in the course of UAT. The level of support shall be provided for all shifts during UAT.

5. System Design

The Contractor shall design, develop, and document the new OC Mobile ID using Ares App Software with Javelin Device to satisfy the requirements of this SOW. The Contractor shall design, develop, and fabricate or procure all hardware, software, and data components of the system(s), with the exception of the operational data to be provided by OCCL.

The Contractor shall, to the maximum extent feasible, use non-proprietary hardware and software in developing and implementing the system. To the maximum extent feasible, the equipment shall be available commercially from third party vendors as well as through the Contractor.

The Contractor shall develop the OC Mobile ID System Design Specification (OC-07). The Contractor shall develop and maintain the Requirements Verification Traceability Matrix (OC-11) to map the requirements in this SOW to the OC Mobile ID System Design Specification. The Contractor shall conduct a System Design Review (SDR) and present their design for OCCL approval. The SDR shall be a comprehensive and in-depth review of the design as documented in the OC Mobile ID System Design Specification and the Bill of Materials.

Contractor shall provide any necessary upgrades, modifications, and enhancements to ensure the Mobile ID solution using Ares App Software with Javelin Device has a useful life of at least seven (7) years, including but not limited to cellular network compatibility and new services offered by Cal-DOJ (e.g. Mobile Booking).

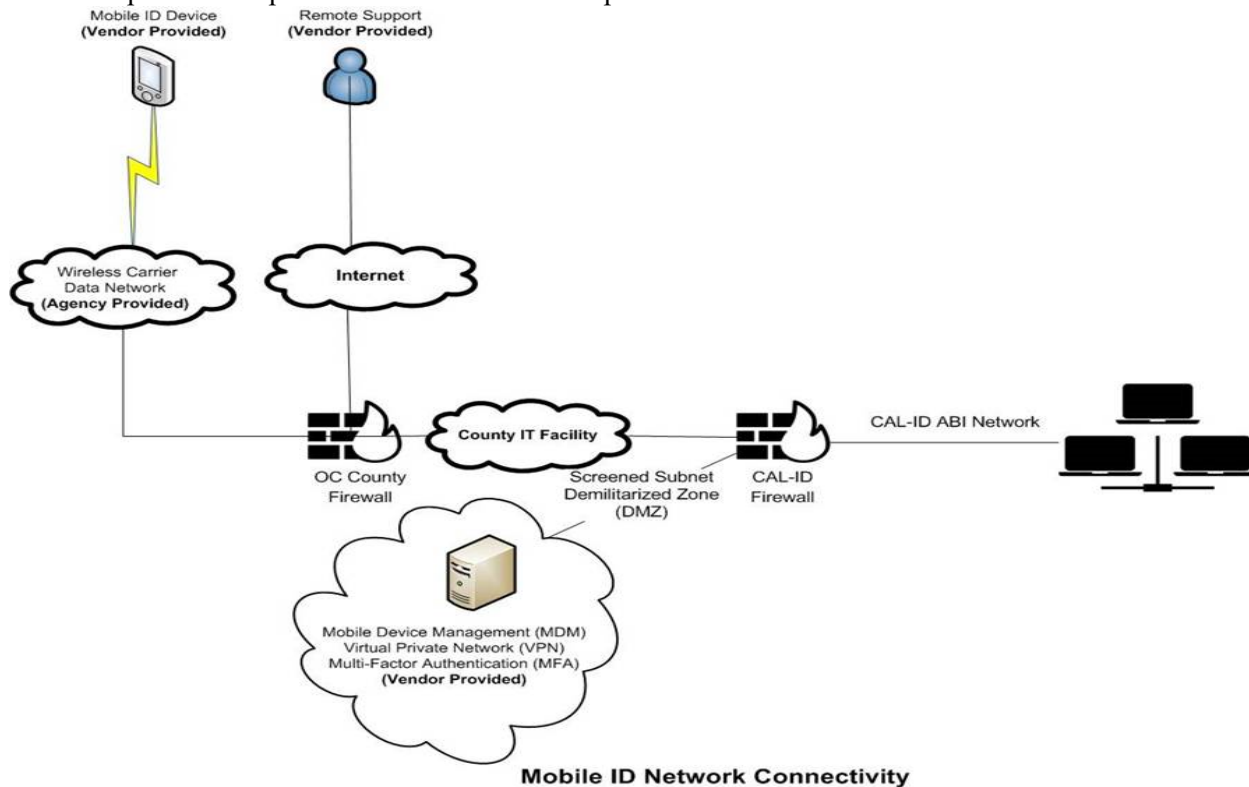
Upon successful completion of the System Design Review, the OC Program Manager will authorize the Contractor to proceed with onsite system integration and testing.

5.1. New Operational Environment Overview

The County does not currently operate a countywide Mobile ID solution. OCCL will work with each Agency to add the Mobile ID devices provided in this contract to the Agency provided cellular network. OCCL will work with each Agency to direct the Mobile ID cellular traffic through the County to OCCL.

Contractor shall provide OCCL with a Mobile Device Management (MDM) solution, encrypted Virtual Private Network (VPN) and Advanced Authentication capability for the Mobile ID device fleet by using Cisco VPN Router, Dell PowerEdge Servers, VMWare AirWatch EMM and VMWare ESXi Virtualization Environment The MDM shall centralize, configure and manage the mobile devices and support the major mobile operating systems (e.g. Apple iOS, Android). All contractor provided systems shall be highly available, with 99.99% uptime.

The anticipated new operational environment is depicted below:



5.2. Requirements Review

The Contractor shall review the OC Mobile ID requirements and conduct the analyses and modeling necessary to validate the requirements. The Contractor shall identify errors, ambiguities, conflicts, incompletes, and other defects in the requirements. The Contractor shall recommend changes to the requirements where those changes would correct defects or result in benefit to the OCCL (e.g., enhance the overall functionality, performance, or reliability of the Mobile ID, reduce life cycle costs, increase maintainability, shorten the schedule, or reduce program risk).

The Contractor shall conduct a System Requirements Review (SRR). The Contractor shall document recommended changes to the OC Mobile ID requirements and shall support these recommendations (e.g., with trade study results and cost benefit analyses).

Upon successful completion of the SRR, the OC Program Manager will authorize the Contractor to proceed with system design. OCCL will incorporate any approved changes in a revision to the OC Mobile ID requirements.

5.3. Functional and Technical Requirements

Mobile ID solutions provide an efficient tactical mechanism for human identification in the field. As such, the devices must be designed for rugged use, with ergonomic considerations, and with officer safety and ease of operation in mind. The systems must also meet or exceed industry standards, comply with strict quality standards, meet performance standards, and be well-suited to the Orange County law enforcement environment.

OCCL defines a Mobile ID “Device” as a fully assembled combination of fingerprint scanner, handheld unit, and display unit. These components may be fully integrated and exist as one solid device or may be wholly or partially removable from each other. Unless otherwise specified, requirements apply to the fully assembled Device.

5.3.1.General Requirements

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Requirement ID	Requirement Description
G01	Contractor shall provide a portable or compact server rack specifically for hosting the contractor provided Mobile ID project Server(s). The rack shall be fit for purpose and reside in the Cal-ID Server room.
G02	FAP (Fingerprint Acquisition Profile) 30 or higher
G03	Battery life shall be at least 8 hours under peak use conditions for all device components
G04	Device shall be designed to accommodate charging while fully assembled and via a single charging port, for all charging options
G05	All device components and accessories shall be designed to withstand being wiped down with disinfecting agents such as alcohol wipes or Clorox wipes
G06	Handheld unit shall have features that support enhanced gripping and one-handed use, such as contours or a ribbed body.
G07	Device shall be ruggedized. It shall be designed to be hard-wearing, protecting the display and scanner components from shock, drops, wear, and temperature stress
G08	Device shall effectively operate in various weather conditions, including high/low temperature and humidity
G09	Device shall be water resistant or waterproof
G10	Display shall be clearly visible and readable in all lighting conditions (e.g. bright sunlight and night time)
G11	Display brightness shall be adjustable
G12	Shall be designed on a fingertip (not stylus) touch screen platform
G13	Shall have the option to capture a photo of subject being fingerprinted for folder/transaction organization on the device, not to be transmitted as a Type-10 record in the RPIS submission
G14	Shall be designed to receive all responses to the handheld device, regardless of the order received
G15	Upon receipt, shall display clearly identifiable multiple independent responses for each submission (i.e. local, state, federal). The ABI System will process each response when received by the external system and the Mobile ID device will receive each response from the ABI System.
G16	Shall be designed to allow multiple transactions to be captured and/or submitted from the device while waiting for responses of previously submitted transactions
G17	Shall be designed to allow efficient sending and receiving while background processes continue (e.g. polling for responses shall not interfere with current transaction activity).
G18	Shall capture fingerprint images automatically when finger is presented, not requiring operator to press a button for capture
G19	In the event of device power failure, an application time-out, or a network interruption device shall queue any unsent transactions until power, functionality, or connectivity is restored and shall automatically send once service is restored.
G20	Shall retain sent and unsent transactions and responses after powering off

- G21 Shall be designed to allow system administrator to set the threshold for the number of transactions stored on the device and shall automatically delete oldest transaction and associated responses once threshold is met
- G22 Shall allow skipping and annotating images
- G23 Shall have dynamic display orientation with display constantly oriented toward the officer/operator (i.e. display shall rotate toward officer if device is turned to present scanner to subject)
- G24 Shall be designed with live view of image being captured
- G25 Shall allow review and recapture, if necessary, of fingerprint images before sending
- G26 Shall allow onscreen enlargement of Type-10 (photo) images from transaction responses
- G27 Shall have clear on/off indicators for all powered components
- G28 Shall have clear battery level indicators for all powered components
- G29 Shall support both agency provided Cellular (Primary) and WiFi (Secondary) network connectivity, which comply with the CJIS Security Policy
- G30 Shall be designed to allow capture and transmission of all ten fingers and configurable by program administrator to designate which fingers to capture for deployment. OCCL intends to designate (4) fingers (thumbs and index fingers) upon initial deployment and expects the flexibility to designate other or additional fingers over time.
- G31 Shall transmit the RPIS transaction type directly from the field equipment to the Orange County Automated Biometric Identification System, via VPN, without the need for intermediary server(s) or mobile computer units.
- G32 Shall receive the complete RPISR and ERRT transaction types from the ABI System and display message contents below, at minimum:

2.006	ATN	Attention Indicator
2.009	OCA	Originating Agency Case Number
2.014	FBI	FBI Number
2.015	SID	State Identification Number
2.017	MNU	Miscellaneous Identification Number
2.018	NAM	Name
2.020	POB	Place of Birth
2.059	SRF	Search Results Findings
2.060	MSG	Status/Error Message
2.071	ACN	Action To Be Taken
2.073	CRI	Controlling Agency Identifier
2.075	ERS	Electronic Rap Sheet
2.088	NOT	Note
2.112	OCA	Your Number
2.153	DOB	Date of Birth
2.154	SEX	Gender
2.175	CAN	Candidate List
2.176	MSG	Status/Error Messages
2.182	DIS	Disclaimer Message
Type 10		Mugshot

G33	Shall be designed to clearly indicate when a new response, including ERRTs, are ready for viewing and when responses have been viewed
G34	Shall allow operators to delete individual and groups of transactions with associated responses
G35	Shall be designed with a manual capture option if auto capture fails or user needs to override the auto capture
G36	Design shall include automated fingerprint image quality feedback to operator
G37	System shall have clear network connectivity indicators
G38	Device shall be easy to use, intuitive, user-friendly, with clear guidance and/or user prompts when helpful (e.g. “ready to print” when the device is ready to capture prints)
G39	Shall be an FBI Certified Product for category “Mobile ID” and specification “Appendix F” or PIV certified
G40	Shall have separate vehicle and station charging kits that are fit for each purpose
G41	Each device shall come with a ruggedized storage case that holds the fully assembled device and all components, including charging cables

5.3.2. System and Security Requirements

Requirement ID	Requirement Description
SS01	Per CJIS Security Policy, the Mobile Device Management system shall support, at minimum: <ol style="list-style-type: none"> Remote locking of device Remote wiping of device Setting and locking device configuration Detection of “rooted” and “jailbroken” devices Enforcement of folder or disk level encryption Application of mandatory policy settings on the device Detection of unauthorized configurations Detection of unauthorized software or applications Ability to determine the location of agency controlled devices Prevention of unpatched devices from accessing CJI or CJI systems Automatic device wiping after a specified number of failed access attempts
SS02	Contractor shall provide a secure virtual private network (VPN) tunnel that satisfies the CJIS end-to-end transaction encryption requirement.
SS03	Shall provide high availability architecture servers by using either failover or clustering mechanism, or both mechanisms together
SS04	Shall be designed for 4G/LTE or later technology with the flexibility to upgrade without a full device replacement
SS05	Shall be designed to allow deployment of updates, patches, bug fixes, wiping, etc. remotely
SS06	System shall designed for centralized administrative management by OCCL of user accounts and credentials, including the ability to add, disable, remove accounts remotely

Requirement ID	Requirement Description
SS07	Shall meet all local, state, and federal requirements for mobile device security, Criminal Justice Information System security, and protocols for standardized mobile fingerprint search transactions
SS08	Shall encrypt Personal Identification Information (PII), biometrics images, and Criminal History Records Information when at rest and in transit with AES-256 FIPS 140-2 compliant algorithm to ensure maximum data protection.
SS09	System shall provide device level and network (Server) level authentication
SS10	Advanced Authentication shall have a flexible design, allowing biometric and non-biometric options. Coroner Division personnel may choose not to use fingerprint scanner used for deceased transactions.
SS11	Mobile devices and systems that access CJI shall use manufacturer supported software and firmware. All software and firmware shall be kept up to date with all critical security patches. (CLETS PPP 1.9.12)

6. Training

The Contractor shall develop and/or provide User and Administrator Manuals addressing all user and administrator functions for all user types. User documentation shall describe the components, functions, and operations of each system type, including mobile devices and central site server systems. Operations descriptions shall include a list and description of all error conditions, as well as the associated error messages displayed and the action required of the operator for each error condition. Each mobile system shall include a Quick Reference Guide (OC-09) to be distributed with each device.

The Contractor shall prepare Training Materials (OC-10), such as PowerPoint presentations, device images, screen examples, and step-by-step visual instructions covering hands-on training for all Operators, and Administrators. Contractor shall support OCCL in conducting the course training as described below as well as provide for ad hoc user training to support testing.

There are approximately four hundred (400) operators to receive basic training by OCCL, with Contractor support. There are two (2) to five (5) individuals who will have responsibility for overall system administration and shall receive administrator training by Contractor.

7. Warranty

The Contractor shall provide a three (3) year warranty (“Warranty”), which shall commence upon completion of Milestone 3, i.e., successful completion of System Acceptance Review (see SOW, Section 4.3, Acceptance) and prior to the Maintenance period (see Section 7 above). The Warranty shall include all goods and services that are part of Maintenance, but at no cost to the County. Specifically, the Warranty shall include:

- a. All software updates/upgrades to Contractor’s deliverables whenever new Contractor product releases are introduced during the life of the Contract, at no additional cost to the County.
- b. Corrective maintenance for any error, malfunction, or defect in Contractor supplied equipment, software, or documentation which, when used as delivered, fails to perform in accordance with Contractor’s officially announced, written or published, technical specifications through the life of the Contract.
- c. 24x7x365 Warranty support and Help Desk/service calls for all equipment (hardware and software), including holidays. Contractor shall provide to OCCL appropriate personnel for troubleshooting operational issues, hardware problems, and software problems, as requested. Contractor shall accept such requests telephonically via a toll-free number or via a monitored email account and document the issues in trouble tickets. Contractor shall acknowledge trouble tickets telephonically or by email within thirty (30) minutes and provide technical support telephonically within one (1) hour from the customer

- initiation of the trouble ticket. In the event maintenance personnel cannot be reached, a Contractor representative shall return the call based upon an established escalation policy.
- d. Response to all support calls to the Contractor as soon as possible from the time they are reported, not to exceed two (2) hours. If the Contractor cannot re-establish successful end to end processing within ten (10) business days, devices shall be replaced with same device or an OCCL approved substitute at no cost.
 - e. Monthly reports of all Help Desk/service calls with full description of the issue and resolution.
 - f. Real time auto-generated e-mails to assigned OCCL contacts when a Help Desk ticket is generated, updated, and closed with full description of the issue and resolution.

8. Maintenance

The Contractor shall provide all software updates/upgrades to their deliverables whenever new Contractor product releases are introduced during the life of the Contract, at no additional cost to the County. The Contractor shall provide corrective maintenance for any error, malfunction, or defect in Contractor supplied equipment, software, or documentation which, when used as delivered, fails to perform in accordance with Contractor's officially announced, written or published, technical specifications through the life of the Contract.

The maintenance coverage for all equipment (hardware and software) shall be 24x7x365, including holidays. The Contractor shall provide to OCCL appropriate personnel for troubleshooting operational issues, hardware problems, and software problems, as requested. Contractor shall accept such requests telephonically via a toll-free number or via a monitored email account and document the issues in trouble tickets. Contractor shall acknowledge trouble tickets telephonically or by email within thirty (30) minutes and provide technical support telephonically within one (1) hour from the customer initiation of the trouble ticket. In the event maintenance personnel cannot be reached, a Contractor representative shall return the call based upon an established escalation policy.

Contractor personnel will respond to all support calls reported to the Contractor as soon as possible from the time they are reported, not to exceed two hours. If the Contractor cannot re-establish successful end to end processing within ten (10) business days, devices shall be replaced with same device or an OCCL approved substitute at no cost. Contractor shall provide monthly reports of all Help Desk/service calls with full description of the issue and resolution.

Contractor shall send real time auto-generated e-mails to assigned agency contacts when a Help Desk ticket is generated, updated, and closed with full description of the issue and resolution.

9. Additional Services/Functionalities

Additional services/functionalities offered by Contractor that may be phased in over the course of the Contract may include but are not limited to:

- a. **LiveScan/Mobile Booking Certified:** The Ares software that Contractor is deploying to County will already have additional hidden Transaction Types, which can be enabled in the future, that are FBI EBTS 10 compliant, including booking types such as Criminal Answer Required (CAR) and Miscellaneous Applicant (MAP). The software will be able to perform rolled print capture and sequence checking. Ares is FBI Certified for live scan, enabling mobile booking when paired with an FAP-50 sensor such as the IB Five-O, or an FAP-60 sensor such as the IB Kojak. The cased S10 phone will also be compatible with additional InCadence multimodal biometric modules including the Javelin+ (FAP-45 2-finger and single-iris camera) and the JavelinXL (FAP-50 4-finger and dual-iris camera). This will enable the County to expand its mobile fingerprinting capability to include mobile booking and other use cases, all of which are supported by the existing Ares software Contractor is delivering for the Mobile ID solution. This will prepare the County to participate the new initiatives such as the FBI NGI Iris Pilot. FBI CJIS is a current customer of Contractor for the Javelin+ and

JavelinXL iris-enabled mobile devices. This will provide a distinct advantage over devices that only provide single-finger PIV-style fingerprint readers.

10. County-Supplied Items and Assistance

- a. At County's sole discretion, County will furnish Contractor the following:
 - County will mail or email blank background packets for Contractor personnel.
- b. Contractor does not require any County furnished equipment, materials or facilities other than the aforementioned applicant background packets.

Appendix A – List of Deliverables

(All deliverable due dates are in number of business days)

	Deliverables	Format	Due
OC-01	Project Management Plan	Electronic	Draft within 30 days after contract award. Final within 30 days after OCCL comments.
OC-02	Master Schedule	Electronic	Preliminary draft with bid proposal. Updates within 30 days after contract award and updates to address risks and issues status changes, monthly at minimum. Final within 30 days after OCCL comments.
OC-03	Meeting Agendas, Presentation Materials, Minutes	Electronic	Draft 5 days prior to meeting, updates at meeting, final 5 days after OCCL comments.
OC-04	Bill of Materials	Electronic	Preliminary draft with bid proposal. Update 10 days prior to SDR. Final at SAR.
OC-05	System Acceptance Test Plan	Electronic	Draft 30 days prior to SAT TRR. Final at SAT TRR. Updates 10 days after SAT based on lessons learned in execution of SAT.
OC-06	System Acceptance Test Report	Electronic	10 days after SAT
OC-07	System Design Specification	Electronic	Draft 30 days prior to SDR. Updates at SDR. Final attached to SDR meeting minutes as deliverable OC-03
OC-08	Licenses	Hard copies	At SAR.
OC-09	Quick Reference Guide	One laminated hard copy per device and electronic to OCCL	Draft 30 days after SDR. Updates 5 days prior to SAT TRR. Final as attachment to SAT Report.
OC-10	Training Materials	One hard copy per operator and electronic to OCCL	Draft 30 days after SDR. Updates 5 days prior to SAT TRR. Final as attachment to SAT Report.
OC-11	Requirements Verification Traceability Matrix (RVTM)	Electronic	Draft with bid proposal. Updates 20 days prior to SDR. Final attached to SDR meeting minutes as deliverable OC-03.

**ATTACHMENT B
PAYMENT/ COMPENSATION**

This is a fixed fee Contract between County and Contractor for services provided in Attachment A, Scope of Work. Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for services.

- Pricing:** Pricing set forth herein shall be firm for the first term of the Contract. All price decreases will automatically be extended to the County. County will accept decreases only. Pricing will be firm unless a reduction is available.

Payment Milestones

Orange County Sheriff's Department (OCSD) has identified three (3) Milestones for the design and deployment phase ("D&D Phase") of this Contract. Upon successful completion of each Milestone, the Contractor will be paid a percentage of the total price for the D&D Phase, as indicated below ("Payment Milestone"). Upon successful completion of Milestone 1, the Contractor will be paid twenty percent (20%) of the total cost for the D&D Phase. Upon successful completion of each Phase of Milestone 2, the Contractor will be paid the specified amounts below, which together constitute thirty-five percent (35%) of the total cost for the D&D Phase. Upon successful completion of Milestone 3, Contractor will be paid the remaining forty-five percent (45%) of the total cost for the D&D Phase. Successful completion of a Milestone requires acceptance by the Orange County Crime Lab of all Contract deliverables associated with the Milestone review and deliverables that are due at any time prior to that review. The Payment Milestones, costs, and adjusted payment amounts (i.e., amount of total cost to be paid after completion of each Milestone) are as follows:

Payment Milestones	% of Total Cost	D&D Phase Milestones	Payments to Contractor	Total Cost
Payment Milestone 1	20%	Completion of System Design Review	\$510,448.82	\$510,448.82
Payment Milestone 2	35%	Completion of Deployment (Phases I-IV, total of 450 devices)		\$893,285.44
		<i>Phase I Deployment (70 devices) billed at time of delivery</i>	\$138,955.51	
		<i>Phase II Deployment (120 devices) billed at time of delivery</i>	\$238,209.45	
		<i>Phase III Deployment (130 devices) billed at time of delivery</i>	\$258,060.24	
		<i>Phase IV Deployment (130 devices) billed at time of delivery</i>	\$258,060.24	
Payment Milestone 3	45%	Completion of System Acceptance Review	\$1,148,509.85	\$1,148,509.85
		<i>Total</i>	\$2,552,244.11	\$2,552,244.11

Additional Equipment

Additional equipment may be ordered through the life of the Contract per the following pricing (the below unit costs are based on quantity of one (1) each):

Item	Unit Costs
Duty Belt	\$56.00
Fingerprint Module Extension Cable	\$260.00
Forearm Mount	\$125.00
Javelin Kit Replacement (without software)	\$3,187.41
Javelin Kit (with software)	\$3,787.41

Warranty and Annual Maintenance

A three-year warranty period shall begin after System Acceptance (Milestone 3) at no cost to the County.

A maintenance phase shall begin after the warranty period expires. All maintenance terms, conditions, and pricing are included in this Contract. At the end of the initial Contract term, OCS D expects to renew the Contract, limiting the scope to the appropriate terms of a Maintenance phase (e.g. performance requirements, maintenance terms).

Warranty \$ 0 per year for 3 year(s)

Annual Maintenance (after expiration of Warranty) \$ 482.23 per device or \$217,001.43 per year based on deployment of 450 devices.

Applicable sales tax is authorized to be paid against this Contract and is not included in the payment milestones.

Contract total value shall not exceed \$3,000,000.00 for the initial three (3) year term.

2. **Payment– Invoicing Instructions:** The Contractor will provide an invoice on the Contractor’s letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:
- a. Contractor’s name and address
 - b. Contractor’s remittance address, if different from 1, above
 - c. Name of County agency/department
 - d. Delivery/service address
 - e. Agreement number
 - f. Department’s Account Number
 - g. Date of invoice
 - h. Billing period
 - i. Date of service; location/route
 - j. Trip charges
 - k. Sales tax, if applicable
 - l. Total

Payments and/or invoices for the Sheriff-Coroner Department only are to be sent to:

County of Orange
Sheriff-Coroner/Professional Standards Division

320 N Flower St.
Santa Ana, CA 92703
Attn: Maria Manriquez
714-834-6301

3. **Payment Terms – Payment in Arrears:** Invoices are to be submitted in arrears to the user agency/department to the bill-to address, unless otherwise directed in this Contract. Contractor shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services not previously invoiced. The Contractor shall reimburse the County for any monies paid to the Contractor for services not provided or when services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any services involved or billed under this Contract and shall not be construed as acceptance of any part of the services.

4. **Year End and Final Invoices**

At the end of each term of the Contract, and upon final termination, Contractor shall submit final invoices for services rendered or goods accepted by County under the Contract term (typically one year) within ninety (90) days. For example, if the term of a Contract ends, or the Contract expires without being renewed on June 30th, any and all invoices for services rendered or goods accepted by County during the preceding term of the Contract shall be submitted to County on or before September 28. In the event the ninetieth (90th) day falls on a weekend or County holiday, the deadline for submission of invoices shall be extended to the next business day. County holidays include New Year's Day, Martin Luther King Day, President Lincoln's Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

Contractor's failure to submit invoices pursuant to the deadlines established herein may be deemed a breach and shall be a basis for the County to refuse payment.

**ATTACHMENT C
ESCROW AGREEMENT**