

~~County of Orange Contract #MA-060-17011748 with
Dimension Data North America, Inc., pursuant to FOCUS Contract No. 2016071
For Telecommunications Technology Solution Services and Products~~

AMENDMENT NUMBER ONE

TO

ORIGINAL CONTRACT MA-060-17011748

BETWEEN THE

COUNTY OF ORANGE

AND

DIMENSION DATA NORTH AMERICA, INC.

This Contract MA-060-17011748 is made and entered into upon execution of all necessary signatures between Dimension Data North America, Inc., having its principal place of business at 11006 Rushmore Drive, Suite 300, Charlotte, NC 28277 (referred as “Contractor”), and the County of Orange, operating through its Sheriff-Coroner Department, a political subdivision of the State of California, with a place of business at 320 N. Flower Street, Ste. 108, Santa Ana, CA 92703 (referred to as “County”) which are sometimes individually referred to as “Party” or collectively referred to as “Parties”.

ATTACHMENTS

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

ATTACHMENT A- Scope of Work/Pricing

ATTACHMENT B – FOCUS Contract No. 2016071

RECITALS

WHEREAS, the County of Merced, has issued a Master Price Agreement as Contract No. 2016071, through its Fast Open Contracts Utilization Services(FOCUS) program now in effect from April 26, 2016 through and including April 25, 2019; and

WHEREAS, COUNTY and CONTRACTOR desire to enter into a Contract for CONTRACTOR to perform services under the FOCUS program; and

WHEREAS, Contractor is willing to provide the services specified in this Contract to the County of Orange, Sheriff-Coroner Department;

NOW, THEREFORE, the parties mutually agree:

1. **Scope of Contract:** The terms and conditions of this Contract, including those in its Attachments, specifies the terms and conditions by which Sheriff-Coroner Department will procure services in connection with the Fast Open Contracts Utilization Services (FOCUS) from the Contractor, hereinafter referred to as “Services” as more fully detailed in **Attachment A, Scope of Work/Pricing.**
2. **Precedence:** In the event of a conflict between the terms and conditions in this Contract and terms and conditions in the Attachments, the conflict shall be resolved by giving precedence first to the terms and conditions of this Contract, then the terms and conditions of any Attachments.

3. **Term of Contract:** This Contract shall commence upon execution of all necessary signatures, and shall be effective through and including April 25, 2018~~9~~, unless otherwise terminated by County. Contract may be renewed for up to ~~three~~ two (~~3~~2) additional one-year terms, upon mutual agreement of both Parties. Each renewal of this Contract may require approval by the County Board of Supervisors. The County does not have to give a reason if it elects not to renew.
4. **Compensation & Payment:** Contractor agrees to provide services in connection with the Fast Open Contracts Utilization Services (FOCUS) as set forth in **Attachment A, Scope of Work/Pricing**, at the fixed discounted rates off Contractor's list price specified in the FOCUS Contract No. 2016071. The maximum amount of compensation under this Contract shall not exceed the amount of \$5,000,000.00 for the first contract term.
5. **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
6. **Invoicing:** Vendor shall reference Contract Number MA-060-17011748 on all invoices. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange 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.

Invoices shall be submitted to the following location:

County of Orange
 Sheriff Coroner/Support Services
 320 N. Flower Street, 3rd Floor
 Santa Ana, CA 92703

7. **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 trial to another county.
8. **Notices:** Any and all notices permitted or required to be given hereunder shall be deemed duly given (1) upon actual delivery, if delivery is by hand; or (2) upon delivery by the United States mail if delivery is by postage paid registered or certified return receipt requested mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time.

For Contractor: Dimension Data North America, Inc.

11006 Rushmore Drive, Suite 300
 Charlotte, NC 28277
 Attn: Vishal Amin
 Ph: 949-265-6003

For County: **PURCHASING**
 County of Orange
 Sheriff-Coroner Department/Purchasing Services Bureau
 320 N. Flower Street, 2nd Floor
 Santa Ana, CA 92703
 Attn: Olivia Prudencio, Supervising PCS
 Ph: 714-834-6687

9. **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
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 Insureds, 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.
- 1) 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.

Technology Errors & Omissions 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 interests clause also known as a "separation of insureds" 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.

Signature Page

The Parties hereto have executed this Contract# MA-060-17011748 on the dates shown opposite their respective signatures below

Contractor*: Dimension Data North America Inc.

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

Contractor*: Dimension Data North America Inc.

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

**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: _____
Deputy

ATTACHMENT A

Scope of Work/Pricing

1. Contractor shall provide County with telecommunications solution technology products and services in the categories as listed below in Paragraph 4. Contractor agrees to provide the products and services requested, as needed by the COUNTY, at prices discounted pursuant to Paragraph 4 below, regardless of quantity requested.
2. Contractor shall provide in writing an estimate to County concerning any services or products requested by County for approval prior to placing an order. County shall verify list pricing with manufacturer prior to approval of written estimate provided by Contractor.
3. The maximum amount that may be paid to Contractor under this Contract shall not exceed \$5,000,000 for the first contract term. No guarantee is given by the COUNTY to the CONTRACTOR regarding products and services to be ordered, or total compensation to be paid under this Contract.
4. Contractor shall provide the County the following discounts off of Contractor's current List Prices for County orders:

Category	Discount % off List Price
Communications Services	
Call Center Solutions (with ACD)	38.50%
Emergency Notification Solutions (Reverse 911)	38.50%
Engineering/Consulting Services	10%
Integrated Voice Response	38.50%
Voice over Internet Protocol (VOIP)	38.50%
Unified Messaging (UM)	38.50%
Long Distance Services	Not available
Telecommunications Systems (PBX)	10%
Telephone Handsets	38.50%
Voice Mail Solutions	38.50%
Wireless Voice Communication Services	38.50%
Application Systems	
Development	10%
Installation Solutions	10%
Version Control Solutions	10%
Infrastructure	
Battery Backup Systems	15%
Cabling Services	Not available
Energy Auditing and Management Solutions	Not available
Enterprise Mobility Solutions	
Mobile Device Management	10%

Mobile Devices (Tablets)	Not available
Mobile Applications	Not available
Maintenance Services	
Network & Enterprise Security Solutions	
Firewall & Virtual Private Network (VPN) Solutions	38.50%
Intrusion Detection/Prevention Solutions	38.50%
Network, Host & Enterprise Management Solutions	38.50%
Transport Solutions (PRI, MPLS, Super-trunks, CO Business Lines, Optical, Satellite, Wireless)	
Video Solutions	38.50%
Wireless Solutions (Wi-Fi)	38.50%
E-Government	
Web Site Analytics	Not available
Web Site Content Management Solutions	Not available
Web Site Design, Development, Hosting Services	Not available
Web Site Development Tools	Not available
Web Site Intranet Solutions	Not available
Web Monitoring & Filtering Solutions	38.50%
Web Site Portal Solutions	
Enterprise Systems	
Virtualization (Servers)	56.50%
Virtual Desktop Infrastructure (VDI)	10%
Anti-Virus, Spam, Spyware Solutions	38.50%
Data Encryption Products & Services	38.50%
Helpdesk Solutions	10%
Hosting Services and Applications (Cloud and SaaS)	10%
Radio Frequency Identification (RFID)	38.50%
Server, Storage & Data Management Products	10%
Telepresence/Video Conferencing	38.50%
Training Solutions	10%
Consulting Services	10%
Other Goods and Services	10%

5. Contractor will ship all items ordered to the following locations:

County of Orange
 Sheriff Coroner/Support Services
 320 N. Flower Street, 3rd Floor
 Santa Ana, CA 92703
 Attn: Jose Tostado

ATTACHMENT B

FOCUS - (Contract Number 2016071)