

**CONTRACT BETWEEN  
THE COUNTY OF ORANGE  
AND  
SOUTHTECH SYSTEMS, INC.  
FOR  
COUNTY CLERK AND RECORDER SERVICES SOFTWARE MAINTENANCE AND TECHNICAL SUPPORT**

THIS Contract MA-059-17010305 for County Clerk and Recorder Services Software Maintenance and Technical Support Services (hereinafter referred to as "Contract") is made and entered into as of the date fully executed by and between the County of Orange, Clerk-Recorder, a political subdivision of the State of California, (hereinafter referred to as "County") and SouthTech Systems Inc., with a place of business at 4181 Flat Rock Drive, Suite 300, Riverside CA 92505 (hereinafter referred to as "Contractor"), which are sometimes individually referred to as ("Party"), or collectively referred to as ("Parties").

**RECITALS**

WHEREAS, the County of Orange Board of Supervisors has authorized the Purchasing Agent or his designee to enter into this Contract for County Clerk and Recorder Services Software Maintenance and Technical Support Services as defined in this Contract; and,

WHEREAS, Contractor agrees to provide services as more specifically described in the Scope of Work, attached hereto as Attachment A and incorporated herein; and,

WHEREAS, County agrees to pay Contractor the fees as further set forth in Contractor Compensation and Payment, attached hereto as Attachment B and incorporated herein;

NOW, THEREFORE, the Parties mutually agree as follows:

**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 trial to another County.
- B. **Entire Contract:** This Contract, its Attachments and Exhibits, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, 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 County's Purchasing Agent or his designee, hereinafter "Purchasing Agent".

- 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.
- E. **Delivery:** Time of delivery of equipment and services is of the essence in this Contract. County reserves the right to refuse any equipment or services or to cancel all or any part of the equipment and services not conforming to applicable specifications, reports, samples or description, or equipment and services that do not conform to the prescribed scope of work. Acceptance of any part of the equipment and services shall not bind County to accept future equipment and services, nor deprive it of the right to return documentation already accepted, at Contractor's expense. Delivery shall not be deemed to be complete until all equipment and 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 equipment and services have actually been received to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. **Warranty:** Contractor expressly warrants that the equipment and 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 indemnities as identified in Article HH below, and as more fully described in Article HH, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the equipment and 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 Article HH below, it shall indemnify, defend and hold County and County Indemnities 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, but not limited to, attorney's fees, costs and expenses.
- I. **Assignment or Subcontracting:** 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 or subcontracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or subcontract 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

sub-Contractors 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 all the penalties imposed for a violation of Section 1720 et seq. 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 terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any 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 obligations.
- L. **Consent to Breach Not Waiver:** No term or provision of this Contractor 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. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.
- N. **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.
- O. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps 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 services furnished by the Contractor under this Contract. Contractor shall perform all work diligently including those of County required in its governmental capacity, in connection with performance of the equipment and services; and, if permitted to subcontract, shall be fully responsible for all equipment and services performed by subcontractors.
- P. **Insurance Provision:** Prior to the provision of services under this contract, the Contractor agrees to purchase all required insurance at Contractor's expense and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this contract have been complied with and to keep such insurance coverage and the certificates therefore 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) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a (0-) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management upon review of Contractor's current audited financial report.

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 be 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 County 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:

<b><u>Coverage</u></b>	<b><u>Minimum Limits</u></b>
Commercial General Liability	\$1,000,000 combined single limit 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	\$3,000,000 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 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insured's.
- 2) A primary 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.

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 Insureds 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.

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

All insurance policies required by this contract shall waive all rights of subrogation against the County of Orange and members of the Board of Supervisors, 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 Technology Errors & Omissions and/or Network Security & Privacy Liability are "Claims Made" policies, 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 insured" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the County of Orange, Clerk-Recorder, at 630 North Broadway Room 101, Santa Ana CA 92701.

If the contractor fails to provide the insurance certificates and endorsements within seven 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 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.

- Q. **Bills and Liens:** Contractor shall pay promptly all indebtedness for professional services and material used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of Article HH, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
- R. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
- S. **Change of Ownership:** 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 transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.
- T. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties 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 (thirty-six) hours of the start of the delay and Contractor avails himself of any available remedies.
- U. **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.
- V. **Compliance with Laws:** Contractor represents and warrants that equipment and 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 equipment and services at the time equipment and 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 Article HH, 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.

- W. **Freight (F.O.B. Destination):** 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.
- X. **Pricing:** The Contract pricing shall include full compensation for providing all required equipment and services in accordance with required specifications, or services as specified herein or when applicable, in the scope of work attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
- Y. **Intentionally left blank.**
- Z. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
- AA. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
- BB. **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.
- CC. **Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- DD. **Attorneys Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney’s fees, costs and expenses.
- EE. **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 has 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 of 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 affect the purpose of the Parties and this Contract.
- FF. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
- GG. **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.

HH. **Indemnification Provisions:** 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.

### **Additional Terms and Conditions**

1. **Term of Contract:** The effective date of this Contract shall be February 1, 2017 and shall continue for a period of five (5) years, through January 31, 2022, upon approval by the County of Orange Board of Supervisors.
2. **Compensation:** This is a fixed rate Contract for all related services. Contractor agrees to accept the specified compensation set forth in Attachment B, Contractor Compensation and Payment, as full remuneration for providing all equipment and performing all services and furnishing all staffing and materials called for; and for any reasonably foreseeable difficulties which may arise or be encountered in the execution of the equipment, installation and related services until acceptance; and for risks connected with the equipment and services; and for performance by the Contractor of all of its duties and obligations hereunder.
3. **Scope of Work:** The Scope of Work for this Contract is attached hereto as Attachment A.
4. **Adjustments-Scope of Work:** No adjustments made to the scope of work will be authorized or paid for without prior approval of the County assigned Deputy Purchasing Agent.
5. **Changes/Extra Work/Modifications:** The Contractor shall make no changes in this Contract without the County's written consent. In the event that there are new or unforeseen requirements, the County with the Contractor's concurrence has the discretion to request official changes at any time without changing the intent of this Contract.

If County-initiated changes affect price, the Contractor's ability to deliver services or the project schedule, the Contractor shall give the County written notice no later than seven calendar days from the date the change was proposed and the Contractor was notified of the change. Such changes shall be agreed to in writing and incorporated into a Contract modification before becoming effective. Said modification shall be issued by the Deputy Purchasing Agent or his designee and



may be subject to approval by the County Board of Supervisors. Nothing herein shall prohibit the Contractor from proceeding with the work set forth in Attachment A, Scope of Work.

All extra services are by mutual consent of all Parties and may be subject to the approval of the County Board of Supervisors.

6. **Subject to Fiscal Appropriations:** This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not approved, this Contract will be terminated without penalty to the County.
7. **Entirety:** This Contract and all of its Attachments and Exhibits comprise the entire Contract between the Contractor and the County. Additional or new terms contained in this Contract, which vary from the Contractor's proposal, are deemed accepted by the Contractor by execution of this Contract or other commencement of performance hereunder. All previous proposals, offers, discussions, preliminary understandings, and other communications relative to this Contract, oral or written, are hereby superseded, except to the extent that they have incorporated into this Contract. No future waiver of, exception to, addition to, or alteration of any of the terms, conditions and/or provisions of this Contract shall be considered valid unless specifically agreed to in writing by both Parties.
8. **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 written consent of the County, 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 this 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.

9. **Project Manager-County:** The County shall appoint a Project Manager to act as liaison between the County and the Contractor during the term of this Contract. The County's Project Manager shall coordinate the activities of the County staff assigned to work with the Contractor.

The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager and key personnel. The County's Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within 5 calendar days after written notice by the County's Project Manager. The County's Project Managers shall review and approve the appointment of the replacement for the Contractor's Project Manager and key personnel. Said approval shall not be unreasonably withheld.

10. **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.
11. **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.

**12. 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.

**13. 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 surviving entity in a merger or acquisition or, in the event of liquidation, to the County's project manager.

**14. Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole properties of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County.

**15. 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.

**16. Publication:** No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of all aspects of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both Parties.

**17. News/Information Release:** The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County's Project Manager.

**18. 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. 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;
- b. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach and offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above; and
- c. Terminate the Contract immediately without penalty.

**19. Disputes:**

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, such matter shall be brought to the attention of the County's Purchasing Agent by way of the following process:

1. The Contractor shall submit to the County 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's Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. The County's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences action in a court of competent jurisdiction.

**20. Validity:** The invalidity in whole or in part of any provision of this contract shall not void or affect the validity of any other provision of the contract.

**21. Software – Future Releases:** If improved, updated, upgraded, or enhanced versions of any Software Program(s) 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. The charge for such upgrading to the later version of the software shall be included as software maintenance under this Contract. The County shall not be required to provide any additional compensation for any improvement, update, upgrade, or enhancement, which is made available to other licensees. Updates shall include, but not limited to, fixes for program errors, malfunctions and bugs, software enhancements and new features released during the term of the Contract period. Product updates will not include the release of products designated as "new products" for which the Contractor charges a separate license fee.

**22. Software – Maintenance:** The correction of any residual errors in any software products which may be discovered by the contractor or by the County will be considered maintenance. Such maintenance will be performed by the contractor without additional charge for the duration of this contract. Suspected errors discovered by the County in the software products will be handled by the following procedure:

1. A listing of the output and a copy of the evidential input data in machine-readable format will be submitted to the contractor along with a completed copy of the appropriate contractor information form and, if appropriate, a listing of the contents of the memory of the CPU at the time the error was noted.
2. Errors in the software product as verified by the contractor will be corrected by providing a new copy of said software product or a new copy of the affected portions in machine-readable format.

The contractor will be available to assist the County in isolating and correcting error conditions caused by the County's particular hardware or operating system at rates specified in this contract. If the contractor is called upon by the state to correct an error caused by the County's negligence, modification by the County, County-supplied data, or machine or operator failure or due to any other cause not inherent in the original software products, the contractor reserves the right to charge the County for such service on a time and material basis at rates in accordance with the contract.

**23. County of Orange Child Support Enforcement Certification Requirements (Attachment 1):** Contractor is required to comply with the child support enforcement requirements of the County. Failure of the Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

**24. 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.

Contractor: SouthTech Systems, Inc.  
Attn: Jose Dominguez  
4181 Flat Rock Drive, Suite 300  
Riverside, CA 92505  
Phone: 951.354.6104x1001  
Fax: 951.354.6107  
E-Mail: [jose.dominguez@southtechsystems.com](mailto:jose.dominguez@southtechsystems.com)

County: Orange County Clerk-Recorder  
Attn: Susie Sullivan, Project Manager  
630 N. Broadway, Room 101  
Santa Ana, CA 92701  
Phone: 714.834.5083  
E-Mail: [susie.sullivan@rec.ocgov.com](mailto:susie.sullivan@rec.ocgov.com)

CC: Orange County Clerk-Recorder  
Purchasing  
Attn: Cherie Tuua-Pua, Procurement Contract Specialist  
630 N. Broadway, Room 101  
Santa Ana, CA 92701  
Phone: 714.834.7692  
Fax: 714.834.3585  
E-Mail: [cherie.tuua-pua@rec.ocgov.com](mailto:cherie.tuua-pua@rec.ocgov.com)

CONTRACT SIGNATURE PAGE

The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

SOUTHTECH SYSTEMS, INC.

Jose Dominguez President  
Print Name Title

[Signature] 11/11/2016  
Signature Date

Grant Gyulnazaryan CFO  
Print Name Title

[Signature] 11/11/2016  
Signature Date

\* (Pursuant to California Corporations Code Section 313, the signatures of two corporate officials are required to bind the corporation, one from each of the following two groups: If the contracting party is a corporation, (2) two signatures are required: one (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 signator to bind the corporation.*

County of Orange, a political subdivision of the State of California

Print Name Title

Signature Date

**APPROVED AS TO FORM**  
**Office of the County Counsel**  
**County of Orange, California**

Jacqueline Gorman Sr. Deputy  
Print Name Title

[Signature] 11/14/2016  
Signature Date

**Attachment A**  
**Scope of Work**

**County Clerk and Recorder Services Software Maintenance and Technical Support**

**I. SCOPE OF WORK**

Contractor agrees and acknowledges that it has granted the County a non-exclusive, nontransferable perpetual license for the "County Clerk and Recorder Services" Software Suite of products consisting of Land Records Systems Group, County Clerk Services Systems Group, Vital Records Systems Group, and all related modules with the accompanying documentation. Contractor further agrees and acknowledges that County is entitled to install the County Clerk and Recorder Services software on an enterprise wide basis for computer servers and workstations for use by the County and Clerk Recorder staff members utilizing County Clerk and Recorder Services software. Termination or expiration of this Contract shall not divest the County of the perpetual license to all the Software Programs listed below.

A. Use

The County Clerk and Recorder Services software suite of products is licensed to the County for daily Clerk and Recorder operations, including satellite offices.

B. Copy of Software/Source Code

The Contractor shall provide a single copy of the source code to the County to hold off site as protection from disasters or for the County to be able to continue use of the Software Programs if Contractor ceases to exist. The County will not sell, distribute or reuse the source code in any manner that is not authorized by the Contractor.

C. Server Use

County may use the software on a client device or as a server within a multi-user or networked environment.

**II. SOFTWARE MODULE GROUPS**

The following software products are included within the scope of the County Clerk and Recorder Services Software Maintenance and Technical Support Agreement:

1. The Cashiering System Group:

- a. CornerStone System – Cashiering/Fund Accounting
- b. CornerStone eCommerce Handshake Service

2. The Land Records Systems Group:

- a. LandDocs.NET including Service Office Architecture Integration (SOA) with FlexIndex and IDShield
- b. RecorderWorks Search and Retrieval and eCommerce
- c. PrelimDocs – 20 Day Notices System
- d. SECURE Integration Service

3. The County Clerk Services Systems Group:

- a. ClerkDocs System – 12 modules
  1. Marriage

2. Fictitious Business Names
  3. Notary Public
  4. Notary Marriage License
  5. Process Server
  6. Professional Photocopier
  7. Unlawful Detainer Assistant
  8. Legal Document Assistant
  9. Power of Attorney
  10. Environmental Impact Report / Fish and Game
  11. Oaths of Office
  12. US Passport
- b. ClerkDocs System – Internet/Intranet Online 9 modules
1. Marriage
  2. Fictitious Business Names Self Service Kiosk and eCommerce
  3. Notary Public
  4. Notary Marriage License
  5. Process Server
  6. Professional Photocopier
  7. Unlawful Detainer Assistant
  8. Legal Document Assistant
  9. US Passport
4. The Vital Records Systems Group:
- a. VitalDocs System – Birth, Death and Marriage Certificate Image Repository with Order Processing module, Scanning, Quality Control, Indexing and Bank Note Paper Management module.
  - b. VitalDocs System – Intranet Birth, Death, and Marriage Certificate Ordering module

### **III. ANNUAL SOFTWARE MAINTENANCE AND TECHNICAL SUPPORT SERVICES**

The Contractor shall provide the following benefits and the following software maintenance and technical support services for the Software Programs.

#### **A. Product Updates and System Upgrades**

The Contractor shall provide product updates for the Software Programs, including new features and system updates. Updates shall include, but are not limited to, fixes for program errors, malfunctions and bugs, software enhancements, updates due to changes in State and Federal regulations and legal requirements, and new features released during the term of the maintenance period. Product updates shall not include the release of products designated as "new products" for which Contractor charges a separate license fee. A single copy of an updated source code shall be provided to the County to hold off site as protection from disasters or for the County to be able to continue use of the Software Programs if Contractor ceases to exist in lieu of an Escrow Account.

Contractor shall provide software updates, which include programming and implementation support of any changes in the application software to maintain compatibility with upgrades of the County's operating environment to a new version of the Microsoft network, database server and operating systems. Changes outside normal Microsoft product updates are not included. The County must notify the Contractor in advance of a system upgrade so that appropriate testing and scheduling of staff time can be completed.



Contractor's system upgrade responsibilities include coordination with the County for the purchase and installation of any digital certificate required for authentication and security requested by the County.

The Contractor shall furnish, install, integrate and test periodic software upgrades to the Software Programs. All upgrades/fixes shall be reviewed by the County's Project Manager to determine readiness and impact on other areas prior to implementation in the production environment. The County's Project Manager and the Contractor shall coordinate all proposed software upgrade or fixes and determine the best course of action for implementing these changes. Software Program upgrades for test environments shall generally be completed during normal business hours. Implementation and Production shall be completed during non-business hours and weekends to avoid disruption in normal business operations.

#### B. Technical Product Support

The Contractor shall provide telephone technical support services for product support for any system error or malfunction. Telephone technical support services may include, but are not limited to, problem diagnosis, guidance on operating features, and discussions on how to correct a system problem. Telephone support shall available during normal business hours of Monday - Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, excluding County holidays. Issues requiring telephone technical support may include, but are not limited to:

- Minor end-user problems with system not operating properly
- Customer problems related to staff report and exhibit workflow
- Application lockup
- Questions regarding system configuration
- Questions regarding system security, privileges and access
- Assistance to County personnel to troubleshoot network, server and database problems
- Research and correct database error reports
- Integration performance problems between Cashiering Systems Group, Land Records Systems Group, County Clerk Services Systems Group and Vital Records Systems Group systems and their respective modules

#### C. Initial Call Back Response Time Frame

Contractor shall respond to service requests from the County within one (1) hour after receipt of a telephone request to obtain detailed information about the request. Contractor and County's Project Manager shall mutually determine the necessary action required to resolve a request for service. The County personnel shall make operational and technical information available to Contractor if needed to determine the severity of the support request and the appropriate response.

#### D. On-Site Services

Contractor shall respond to request from the County for on-site services within four (4) business hours of receipts of the request. Issues requiring on-site services may include, but are not limited to:

- Application problem report that could not be resolved by County personnel and the Contractors customer service through remote troubleshooting and diagnosis
- Installation of software updates that resolve critical problems
- System malfunction problem research

- Software upgrades
- Database corruption problems
- Application update testing
- Third party software integration and version upgrades

E. Preventive Systems Maintenance/Support

Contractor shall perform system monitoring and preventive maintenance to maximize systems performance and reduce system down time or failure. On-site preventive maintenance shall generally occur during normal business hours; however certain preventive maintenance operations, especially on system databases, shall be performed during non-business hours to minimize any disruption to services. Contractor and County's Project Manager shall mutually determine which services are provided during non-business hours. Contractor shall provide the County with advance notification of any proposed preventive systems maintenance modifications, and coordinate scheduling of such modifications with County's Project Manager.

F. Emergency Maintenance Services

Contractor shall respond on-site within two (2) business hours to emergency service requests that relate to the system being either inoperable (down) or non-functioning. County's Project Manager shall determine which requests require an emergency response from Contractor. Issues requiring an emergency service request may include, but are not limited to, corruption or complete system shutdown during a period of time when use of the system is needed to meet production/regulatory deadlines. County and Contractor shall first attempt to resolve the problem using telephone technical support services.

G. Status Reports

Upon request of the County, and with reasonable notice, one or more members of Contractor's senior level staff shall attend up to four (4) on-site status report meetings during each Annual Software Maintenance and Technical Support Period, and a conference call to review current status of all projects and systems performance with County department management and Information Systems staff during the months when an on-site status meeting does not occur. Contractor shall provide a written status report at such meetings and conference calls.

H. Software Performance Review

The Contractor shall perform an on-site software performance review for up to eight (8) hours during each Annual Software Maintenance and Technical Support Period, upon request by County's Project Manager. The performance review shall consist of the following observations and tests:

- a. Run utility routines to verify each record in the database and produce a report for any errors found.
- b. Perform a database management review to determine if data base reorganizations have been successfully completed each month.
- c. Review error logs for the quarter and determine if any corrective action is necessary.
- d. Verify client has back up of current version of application source code.
- e. Review procedures are being adhered to for system security.
- f. Review status of system network architecture documentation to ensure they are up to date for additions, deletions and changes to the network.
- g. Review workstation operating systems are using the current version and service pack in conjunction with the application.

- h. Run database analyzer to identify areas that can be optimized for the database query process.
- i. Review with operations and IT management suggestions for system enhancements and improvements to user interface.
- j. Review with operations and IT management system functions to determine if they continue to meet all legal requirements and identify any needed modifications to meet changes to regulations.
- k. Review performance history of outside third party software that is integrated with the application.

The Contractor shall prepare a Maintenance Status Report to document the results of the review and recommend any follow up action required to correct problems or improve performance.

#### **IV. MODIFICATIONS**

The Contractor shall provide upon County request up to 240 hours of programming service at no additional cost to the County during each Annual Software Maintenance and Technical Support Period. These work requests shall cover software modification including, but not limited to, changes in the County's business process. All modifications or changes to the County Clerk and Recorder Services products must be authorized by work requests approved by the COUNTY Project Manager.

#### **V. ADDITIONAL WORK**

At the request of the County, Contractor shall provide a quote for Additional Work not called for under the Annual Maintenance portions of this Contract. Contractor must obtain County Project Manager written approval prior to commencing any Additional Work.

**Attachment B  
 Contractor Compensation and Payment**

- 1. Compensation:** This is an all-inclusive, firm fixed price contract between County and Contractor for services as specified in Attachment "A", Scope of Work in an amount not to exceed \$1,027,725.00. Contractor acknowledges and agrees that the aforementioned fixed price includes any and all sales tax.

Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, labor, shipping, freight, insurance requirements, taxes, and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services and for performance by Contractor of all its duties and obligations hereunder. Contractor shall only be compensated as set forth herein below for products/services delivered in accordance with the Scope of Work. **County shall have no obligation to pay any sum in excess of total Contract amount specified herein unless authorized by amendment in accordance with Paragraphs "C" and "R" of County Contract Terms and Conditions.**

- 2. Fees and Charges:** County will pay the following fixed fees in accordance with the provisions of this Contract. Contractor shall perform the requested services as described in Attachment A Scope of Work.

**TOTAL NOT TO EXCEED CONTRACT AMOUNT: \$1,027,725.00**

Description of Services	Cost Per Year
Cashiering System Group	\$22,754.00
Land Records Systems Group	\$34,131.00
County Clerk Services Systems Group	\$32,090.00
Vital Records Systems Group	\$41,570.00
<b>Total Annual Maintenance Per Year</b>	<b>\$130,545.00</b>

Contract Totals Not To Exceed	
Total Annual Maintenance – Five Year Term	<b>\$652,725.00</b>
Total Additional Work – Five Year Term	<b>\$375,000.00</b>
<b>Total Contract Amount</b>	<b>\$1,027,725.00</b>

- 3. Payment Terms – Payment in Advance:** Payment shall be made in advance on a quarterly basis. Invoices are to be submitted to the address specified below. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange. Invoices shall be verified and approved by the County and subject to routine processing requirements. The responsibility for providing an

acceptable invoice to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

**The County reserves the right to terminate maintenance on individual modules with 30 days advanced notice.**

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

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

**4. Invoicing Instructions:** The Contractor will provide an invoice on the Contractor's letterhead. Each invoice will have a unique number and will include the following information:

- A. Contractor's name and address
- B. Contractor's remittance address
- C. Name of County agency/department
- D. Contract number **MA-059-17010305**
- E. Service Date
- F. Description of Services
- G. Total

Invoices and support documentation are to be forwarded to:

Orange County Clerk-Recorder  
Attn: Accounts Payable  
630 N. Broadway, Room 101  
Santa Ana, CA 92701

The responsibility for providing an acceptable invoice to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

**Attachment 1**  
**County of Orange Child Support Enforcement Certification Requirements**

Contractor is required to comply with child support enforcement requirements of the County of Orange, within 30 days of award of contract, the successful contractor must furnish to the contract administrator, or the agency/department Deputy Purchasing Agent:

- A. In the case of an individual contractor, his/her name, date of birth, Social Security number, and residence address;
- B. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity;
- C. A certification that the contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- D. A certification that the contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

Failure of the contractor to timely submit the data and/or certifications required or to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.

---

*"I certify that **SouthTech Systems Inc** is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract **MA-059-17010305** with the County of Orange.*

*I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract."*

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Signature	Name (Please Print)
-----------	---------------------

---

Title	Date
-------	------

---

SouthTech Systems Inc.	
Company Name	

---

MA-059-17010305	
Contract Number	Amount

\*Two signatures required if a corporation

A. In the case of an individual contractor, his/her name, date of birth, Social Security number, and residence address:

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

D.O.B: \_\_\_\_\_

Social Security No: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

B. For Contractor doing business in a form other than as an individual:

Name, Date of Birth, Social Security Number and Residence address of each individual who owns an interest of 10 percent or more in the Contracting Entity (if no individual owns 10 percent or more, write "N/A"):

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

D.O.B: \_\_\_\_\_

Social Security No: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

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

D.O.B: \_\_\_\_\_

Social Security No: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

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

D.O.B: \_\_\_\_\_

Social Security No: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

(Additional sheets may be used if necessary)