

Before the Board of Supervisors in and for the County of Monterey, State of California

Agreement No.: A-10635

- a. Approve an agreement with waiver of standard insurance provision and authorize the Director of Health to sign such agreement with Decade Software, LLC, in the annual amount of \$43,210.36 plus applicable California Sales Tax, for the period July 1, 2006, through June 30, 2009, to provide data management services; and
- b. Approve and authorize the Director of Health to sign future amendments to the agreement that increase the annual cost up to 10% of the original amount and that do not significantly alter the scope of services or result in an increase in Net County Cost.

Upon motion of Supervisor Potter, seconded by Supervisor Calcagno, and carried by those present, effective September 12, 2006, the Board hereby:

- a. Approves an agreement with waiver of standard insurance provision and authorizes the Director of Health to sign such agreement with Decade Software, LLC, in the annual amount of \$43,210.36 plus applicable California Sales Tax, for the period July 1, 2006, through June 30, 2009, to provide data management services; and
- b. Approves and authorizes the Director of Health to sign future amendments to the agreement that increase the annual cost up to 10% of the original amount and that do not significantly alter the scope of services or result in an increase in Net County Cost.

PASSED AND ADOPTED this 12th day of September 2006, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Lindley, Potter, and Smith

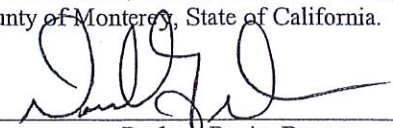
NOES: None

ABSENT: None

I, Lew C. Bauman, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book 73, on September 12, 2006.

Dated: September 12, 2006

Lew C. Bauman, Clerk of the Board of Supervisors, County of Monterey, State of California.

By 
Darlene Drain, Deputy

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING: September 12, 2006 - Consent	AGENDA NO.:
SUBJECT: a. Approve an agreement with waiver of standard insurance provision and authorize the Director of Health to sign such agreement with Decade Software, LLC, in the annual amount of \$43,210.36 plus applicable California Sales Tax, for the period July 1, 2006, through June 30, 2009, to provide data management services; and b. Approve and authorize the Director of Health to sign future amendments to the agreement that increase the annual cost up to 10% of the original amount and that do not significantly alter the scope of services or result in an increase in Net County Cost.	
DEPARTMENT: Health - Environmental Health Division	

RECOMMENDATION

It is recommended that the Board of Supervisors:

- a. Approve an agreement with waiver of standard insurance provision and authorize the Director of Health to sign such agreement with Decade Software, LLC, in the annual amount of \$43,210.36 plus applicable California Sales Tax, for the period July 1, 2006, through June 30, 2009, to provide data management services; and
- b. Approve and authorize the Director of Health to sign future amendments to the agreement that increase the annual cost up to 10% of the original amount and that do not significantly alter the scope of services or result in an increase in Net County Cost.

SUMMARY

This agreement with Decade Software, LLC, will enable the Health Department, Environmental Health Division, to continue to receive data management services for the purposes of billing Environmental Health customers, reporting data to the State of California, as an aide in tracking staff efficiency and effectiveness, and for other database-driven administrative and management needs.

DISCUSSION

Decade Software has exclusive rights to market the proprietary software, Envision for Windows. With Envision for Windows, Decade Software provides data management services for numerous environmental health programs in California, as well as in other states.

Environmental Health has identified Envision for Windows software as the product that best suits its needs for billing the businesses and public entities that Environmental Health regulates, for reporting required data regarding Environmental Health activities to various State agencies, and for managing its activity records database.

Environmental Health has contracted with Decade Software to use this data management software since 1996. Decade Software's commercial general liability, business automobile liability, professional liability and workers compensation insurance coverage meets or exceeds the minimum requirements of the County for Professional Service Agreements. However, the insurance carrier will not provide the "primary" and "non-contributory" endorsement language required by Risk Management.

AGREEMENT

This AGREEMENT is made and entered into by and between the **County of Monterey, a political Subdivision of the State of California**, hereinafter referred to as "**County**" and **DECADE SOFTWARE**, a limited liability company in the State of California, hereinafter referred to as "**Contractor**."

RECITALS

WHEREAS, the County has need for certain data management services; and

WHEREAS, Contractor acts as sole marketing agent for **Envision** data management services for environmental health programs in California and thereby possesses the skills and resources to provide the data management services desired by County (See Exhibit "A") attached and incorporated by this reference.

NOW, THEREFORE, in consideration of their mutual covenants and conditions, the parties hereto agree as follows:

1. SERVICES

Contractor shall provide County with *Envision*, for billing and inspection tracking for the County's various environmental health programs consistent with the terms set forth in Exhibit "A" attached and incorporated by this reference.

2. SITE LICENSE AGREEMENT

The County agrees to abide by the conditions contained in the Site License Agreement set out in Exhibit "B" attached and incorporated by this reference.

3. COMPENSATION

3.1 Subject to the limitations set forth in this AGREEMENT and Exhibits A, and B, County shall pay Contractor in accordance with the payment provisions and payment schedule incorporated herein. The total amount payable to Contractor under this AGREEMENT shall not exceed the annual amount set forth in the paragraph below. If, as of the date of execution of this AGREEMENT, Contractor has already received payment by County for services rendered or delivery of products after commencement of the "Contract Term", set forth in Section 6.1 incorporated herein, or for any services or products delivered on or after July 1st, 2006, such amounts shall be deemed to have been paid out under this AGREEMENT and shall be counted toward County's maximum liability under this AGREEMENT.

3.2 County shall pay Contractor the following charges directly:
Maximum Amount: In full consideration of Contractor's services described in

Exhibit "A", the amount that the County shall be obliged to pay for services provided under this AGREEMENT shall not exceed forty three thousand two hundred ten dollars and thirty six cents (\$43,210.36) per year, plus applicable California State Sales Tax

- 3.3 County shall provide reimbursement to Contractor for pre-authorized travel and/or mileage costs, not to exceed IRS and/or Monterey County reimbursement rates for mileage, travel, lodging and meals, when travel is required in the performance of this AGREEMENT and pre-authorized in writing by the County. The maximum allowable IRS rates for travel to Monterey County are as follows:

Mileage reimbursement rate:	\$.36/mile
Maximum lodging rate:	\$90 plus tax/day
Full day meals and incidentals:	\$46.00 plus tax/day

(Breakfast \$10.00 Lunch \$10.00 + Dinner \$24.00 + Incidentals \$2.00 = \$46.00)

Payments for pre-authorized mileage, travel, lodging, and meals shall be reimbursed subject to the maximum amounts set forth above, to Contractor for actual costs, up to the maximum allowable costs set forth herein, incurred by Contractor. Contractor further agrees that in order for the County to reimburse Contractor for the actual costs incurred, up to the maximum allowable costs set forth herein, Contractor shall submit original receipts and/or invoices to the County within 30 days of incurring said mileage and/or travel expenses. Contractor's failure to submit original receipts and/or invoices to County within 30 days of incurring costs for mileage and/or travel expenses may result in delay of timely reimbursement or County refusal to reimburse Contractor. Contractor's failure to obtain prior written authorization by County, to incur mileage and/or travel expenses, may result in County refusal to reimburse Contractor.

- 3.4 Any tax, such as sales and use taxes, exclusive of property, payroll, and income taxes, that Contractor is required to collect or pay based upon the sale or delivery of products or services under this AGREEMENT shall be paid by the County to Contractor.

If the County is using the Software in California and receives the Software as tangible personal property, for example floppy disks, magnetic tape, Zip disk, CD-ROM, or any other medium by which the software is temporarily stored to effect transfer to County's computer, then the full license and support fee as well as training and conversion fees are subject to California sales and use tax. The definition of transfer is the leaving behind of such tangible personal property. However, if the Software is received by County over communication lines, via the Internet, a bulletin board service or through a direct connect between County and Decade computers, the license and support, training, and conversion fees are not subject to sales and use tax. In California, all training, file conversion for the Software, parts and supplies are subject to sales and use tax, except hourly-based

professional services.

4. COMPENSATION FOR INDIRECT COSTS, CONSULTATION OR CUSTOM PROGRAMMING BEYOND THE SCOPE OF THIS AGREEMENT AND EXHIBITS

It is understood by the parties that pre-authorized indirect costs incurred by Contractor, which are beyond the terms and conditions of this AGREEMENT and its Description of Services (Exhibit A) and the Site License and Support Agreement (Exhibit B), shall be considered as additional costs and shall be paid to Contractor by the County. Some of these indirect costs include, but are not limited to, the purchase of software and user licenses of Microsoft SQL and Crystal Reports Developer. Prior to incurring any indirect costs, Contractor shall provide County with a written accounting and description of said indirect costs, and with a written justification for the necessity of said indirect costs. Under no circumstances shall Contractor incur said indirect costs without express, written prior authorization from County. Contractor's failure to obtain County's express, written prior authorization to incur said indirect costs, shall release County from any and all liability for said indirect costs. For the reimbursement of pre-authorized indirect costs, Contractor shall bill the County separately within 30 days of incurring said pre-authorized indirect costs.

Further, any other pre-authorized consultation or pre-authorized custom programming, beyond the terms and conditions of this AGREEMENT and its, Description of Services (Exhibit A) and the Site License and Support Agreement (Exhibit B) shall also be considered as additional charges to the County. Prior to incurring any consultation or custom programming costs, Contractor shall provide County with a written accounting and description of said consultation and/or custom programming costs, and with a written justification of the necessity for said consultation and/or custom programming costs. Under no circumstances shall Contractor incur said consultation and/or custom programming costs without express, written prior authorization from County. Contractor's failure to obtain County's express, prior, written authorization to incur said consultation and/or custom programming costs, shall release County from any and all liability for said consultation or custom programming costs. For the reimbursement of pre- authorized consultation and/or custom programming costs, Contractor shall bill the County separately within 30 days of incurring said pre-authorized consultation and/or custom programming costs.

5. PAYMENT SCHEDULE

Contractor agrees to accept the annual fee payment in twelve (12) monthly payments by Contractor submitting monthly invoices. Contractor further agrees to mail invoices no later than the 15th day of each month for the previous month fee and accepts payments in arrears with net thirty (30) days. Further, in case payment/billing disputes and disagreements arise between the parties, this 30-day payment requirement shall not apply to that particular disputed invoice.

6. CONTRACT TERM

- 6.1 Based on the Monterey County's fiscal year, which is July 1st to June 30th, the parties agree to enter into a three (3) year AGREEMENT, which is from July 1, 2006 through June 30, 2009.
- 6.2 Upon expiration of this three (3) year AGREEMENT, the County reserves the option to extend this AGREEMENT for two (2) additional one (1) year extensions. The parties understand and agree that the terms and conditions of this AGREEMENT and its Exhibits A, and B, may be extended and re-negotiated upon the mutual, written agreement, between the parties to this AGREEMENT and its Exhibits A, and B.
- 6.3 It is mutually understood that the County reserves the right to terminate this AGREEMENT, or any extensions to this AGREEMENT, without cause, with a thirty (30) day written notice, or with cause, immediately. In case the AGREEMENT, or its extensions, if any, is terminated, the County is not obligated to give a reason for the termination.
- 6.4 ACTIONS UPON TERMINATION. Client will cease using Licensed Materials immediately upon termination. Within thirty (30) days after termination for any reason, Client will furnish Decade an affidavit certifying that the original and all copies, in whole or in part, of the Licensed Materials have been returned to Decade or destroyed by Client. Client will pay all amounts due Decade.
- 6.5 It is mutually understood and agreed that Contractor reserves the right to immediately suspend or terminate this AGREEMENT in whole or in part, if there is a failure on the part of the County to pay Contractor the agreed upon compensation in accordance with the Payment Schedule set forth in Section 5 of this AGREEMENT. If the County abuses this AGREEMENT because of incompetent or untrained operators, or violates any terms or conditions of this AGREEMENT, Contractor will notify the County in writing of its intent to terminate this AGREEMENT explaining the reasons for termination. However, Contractor understands and agrees that Contractor shall be responsible for the initial training, refresher training, and support services for County employees in accordance with the terms and conditions of this AGREEMENT and, as set forth and provided for in Exhibit A and Exhibit B to this AGREEMENT. The County will have thirty (30) days to correct the cause(s), and if the corrections are not made, Contractor will have the right to terminate this AGREEMENT.

7. NON-ASSIGNMENT

- 7.1 ASSIGNMENTS AND SUBCONTRACTING: Neither party shall assign this AGREEMENT nor their rights or duties under this AGREEMENT without the prior written consent of the other party. None of the services covered by this AGREEMENT shall be subcontracted without the prior written approval of the

County. Notwithstanding any such subcontract, Contractor shall continue to be liable for the performance of all requirements of this AGREEMENT.

7.2 SUCCESSORS AND ASSIGNEES: This AGREEMENT and the rights, privileges, duties, and obligations of the parties hereunder, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assignees and heirs.

8. MODIFICATION

Any terms or conditions of this AGREEMENT and/or its Exhibits A, and B, may be amended or modified from time to time. Such amendments and/or modifications shall be made upon the mutual agreement of the parties, in writing, and signed by all of the parties to this AGREEMENT and its Exhibits A, and B. Excluding the amended or modified provisions of this AGREEMENT, any and all of the remaining terms and conditions of this AGREEMENT and Exhibits A through B shall remain in full force and effect.

9. WAIVER

Any waiver of any terms and conditions hereof must be in writing and signed by the parties hereto. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other terms or conditions in this AGREEMENT. Any failure by any party, to enforce any of the terms or conditions set forth herein, shall not be construed as a future waiver of any of the terms or conditions set forth in this AGREEMENT or Exhibits A through B.

10. COMPLIANCE WITH APPLICABLE LAWS

The parties shall comply with all applicable federal, state, and local laws and regulations in performing this AGREEMENT. Additionally, the rights and obligations of the parties under this AGREEMENT, and all interpretations and performance of this AGREEMENT, shall be governed in all respects by, and interpreted under, the laws of the State of California.

11. NON-EXCLUSIVE AND NEGOTIATED AGREEMENT

11.1 RESERVATION OF RIGHTS: This AGREEMENT is non-exclusive and both parties expressly reserve the right to contract with other entities for the same or similar services.

11.2 NEGOTIATED AGREEMENT: It is agreed and understood by the parties hereto, that this AGREEMENT has been arrived at through negotiations and that neither party is to be deemed the party which prepared this AGREEMENT within the meaning of California Civil Code Section 1654.

12. GENERAL PROVISIONS

Contractor promises and agrees to comply with all the following standard clauses and conditions set forth in this AGREEMENT and shall be in full force during this AGREEMENT term and any subsequent extensions, modifications and/or amendments.

12.1 **INDEMNIFICATION:** Contractor shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including, but not limited to, damages to property and injuries to or death of persons, court costs, and attorney's fees) occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the Contractor's performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "Contractor's performance" includes Contractor's action or inaction and the action or inaction of Contractor's officers, employees, agents, and subcontractors.

12.2 **INSURANCE:** Without limiting Contractor's duty to indemnify, Contractor shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:

Comprehensive General Liability, including, but not limited to premises, personal injuries, products, and completed operations, with a combined single limit of not less than \$1,000,000 per occurrence; and

Comprehensive Automobile Liability covering all motor vehicles, including owned, leased, non-owned and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit of not less than \$1,000,000 per occurrence; and

Professional Liability Insurance shall be maintained in effect throughout the term of this Agreement in the amount of not less than \$1,000,000 per claim and \$3,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

If Contractor is an employer, Contractor shall maintain Workers' Compensation

insurance in accordance with California Labor Code §3700, and with a minimum of \$100,000 per occurrence for employers liability; and

General Insurance Requirements. All insurance required by this AGREEMENT shall be with a company acceptable to the County and authorized by law to transact insurance business in the State of California. All such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date Contractor completes its performance of services under this AGREEMENT.

Each liability policy shall provide that the County shall be given notice in writing at least thirty (30) days in advance of any change, cancellation, or non-renewal thereof. Each policy shall provide identical coverage for each subcontractor, if any, performing work under this AGREEMENT, or be accompanied by a certificate of insurance showing each subcontractor has identical insurance coverage.

Comprehensive General Liability and Automobile Liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as additional insureds and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by Contractor's insurance.

Prior to the execution of this AGREEMENT by the County, Contractor shall file certificates of insurance with the County Purchasing Department and the County's contract administrator, showing that Contractor has in effect the insurance required by this AGREEMENT. Contractor shall file a new or amended certificate of insurance promptly after any change is made in any insurance policy, which would alter the information of the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.

- 12.3 INDEPENDENT CONTRACTOR: In the performance of the work, duties, delivery of services and/or products, and obligations pursuant to this AGREEMENT, it is understood and agreed that Contractor is at all times acting and performing as an independent contractor, and shall act in an independent capacity, and not as an officer, agent, or employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and Contractor shall not become entitled by virtue of this AGREEMENT to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, including but not limited to federal and state income taxes, payroll, and

social security, arising out of Contractor's performance of this AGREEMENT. In connection therewith, Contractor shall defend, indemnify, and hold the County harmless from any and all liability, which the County may incur because of the Contractor's failure to pay such taxes.

- 12.4 CONFIDENTIALITY: Contractor and its officers, employees, agents and subcontractors shall comply with any and all applicable federal, state, and local law providing for the confidentiality of records. Confidential information gained by Contractor in the course of performing services under this AGREEMENT shall be used by Contractor only in connection with its work under this AGREEMENT.
- 12.5 MAINTENANCE OF RECORDS: Contractor shall prepare, maintain and preserve all reports and records that may be required by Federal, State and County rules and regulations related to services performed under this AGREEMENT. Contractor shall maintain such records for a period of three years after receipt of final payment under this AGREEMENT, or if litigation relating to this AGREEMENT is pending at the end of the three year period, then Contractor shall retain said records until the end of such litigation.
- 12.6 CONTRACT AUDITING: The County shall have the right to examine monitor and audit all records, documents, conditions and activities of Contractor and its subcontractors related to services and/or products as applicable, provided under this AGREEMENT. Contractor shall permit the County or any of its duly authorized representatives to have access to and to examine and audit any pertinent books, documents or papers, and records of Contractor related to this AGREEMENT. Pursuant to Government Code Section 8546.7, if this AGREEMENT involves the expenditure of public funds in excess of \$10,000.00, this AGREEMENT is subject to examination and audit of the State Auditor, at the request of the County or as part of any audit by the County, for a period of three years after final payment under this AGREEMENT.

Contractor agrees to provide the County with such reports as may be required to satisfy state requests for information regarding the performance of work under this AGREEMENT.

- 12.7 NON-DISCRIMINATION: Contractor shall comply with the non-discrimination clause set forth below.

During the performance of this AGREEMENT, Contractor shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), sexual preference, or gender. Contractor shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code, §12900,

et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, §7285.0, et seq.).

The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this AGREEMENT and Exhibits by reference and made a part hereof as if set forth in full.

Contractor shall include the non-discrimination and compliance provisions of the clause in all agreements with sub-contractors to perform work under this AGREEMENT.

12.8 COMPLIANCE WITH TERMS OF THE STATE OR FEDERAL GRANT: If this AGREEMENT has been or will be funded with monies received by the County pursuant to a contract with or grant from the state or federal government in which the County is grantee, Contractor will comply with all the provisions of said contract, to the extent applicable to Contractor as a sub-grantee under said contract, and said provisions shall be deemed a part of this AGREEMENT, as though fully set forth herein. Upon request, the County will deliver a copy of said contract, or grant agreement as applicable, to Contractor, at no cost to Contractor.

12.9 CONFLICT OF INTEREST: Contractor covenants that Contractor, its responsible officers, and its employees having major responsibilities for the performance of work under the AGREEMENT, presently have no interest and during the term of the AGREEMENT will not acquire any interests, direct or indirect, which might conflict in any manner or degree with the performance of Contractor's services under this AGREEMENT.

13. AUTHORITY

Any individual executing this AGREEMENT on behalf of any entity represents and warrants hereby that he or she has the requisite authority to enter into, and execute, this AGREEMENT on behalf of such entity and bind the entity to the terms and conditions of the same.

14. INTEGRATION

This AGREEMENT, including Exhibits A, and B attached hereto and incorporated herein, shall represent the entire AGREEMENT between the parties and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the parties as of the effective date hereof relating to the subject matter hereof.

15. EXHIBITS

The following attached exhibits are incorporated herein by reference and constitute a part

of this AGREEMENT:

EXHIBIT A Explanation of Services

EXHIBIT B Decade Software Company, LLC – Site License and Support Agreement

16. NOTICES

Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: (1) when personally delivered to the County's contract administrator or to Contractor's responsible officer; (2) when personally delivered to the party's principle place of business during normal business hours, by leaving notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by FAX machine to the other party, at the party's FAX number specified pursuant to this AGREEMENT, provided that the party giving notice by FAX must promptly confirm receipt of the FAX by telephone to the receiving party's office; or, (4) three (3) days after the notice is deposited in the U. S. mail with first class or better postage fully prepaid, addressed to the party as indicated below.

Notices mailed or faxed to the parties shall be addressed as follows:

TO THE COUNTY:


Allen Stroh, Director of Env. Health
Monterey County Health Department
Division of Environmental Health
1270 Natividad Road, Room 301
Salinas, CA 93906-31985
(831) 755-4540 - FAX (831) 755-4880

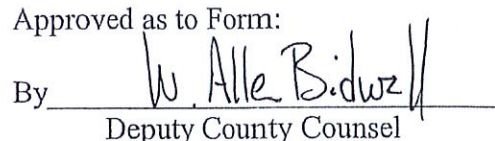
TO THE CONTRACTOR:

Kevin Delaney, President
Decade Software LLC
4201 West Shaw Avenue, Suite #102
Fresno, California 93722
(800) 372-3632

IN WITNESS WHEREOF, the County and Contractor execute this AGREEMENT as follows:

COUNTY OF MONTEREY

By 
Director of Health
Dated 9/15/06

Approved as to Form:
By 
Deputy County Counsel
Dated 05-09-2006

Approved as to Risk:

By _____
Risk Management

Dated _____

Approved as to Fiscal:

By _____
Auditor-Controller

Dated 8-7-06

Approved as to Content:

By [Signature]
Division Chief

Dated 8/14/06

CONTRACTOR

By [Signature]
Chair, President, or Vice President*

Dated 8-18-2006

By [Signature]
Secretary, Asst. Secretary, CFO, or
Asst. Treasurer*

Dated 8/18/06

Contractor's Business Name:

Decade Software Co, LLC

***INSTRUCTIONS:** If Contractor is a corporation, including a limited liability and nonprofit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If Contractor is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this AGREEMENT on behalf of the partnership. If Contractor is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the AGREEMENT.

EXHIBIT A

DESCRIPTION OF SERVICES

A. CUSTOMER SUPPORT

Contractor will provide the County with extensive technical and training support within the annual site license fee. These services are described in Section 4 of the Site License Provisions attached hereto as Exhibit B and incorporated by this reference.

Costs and description of any additional services required by the County that are not included under the customer support covered above are provided below.

A.1.ADDITIONAL ON-SITE TRAINING

Additional training for personnel who have completed initial training classes during the first year of operation will be at the County's expense. Refresher training obtained at the Contractor's site will be provided at no charge.

Initial training for new employees can be provided by the County or the Contractor. If provided by the Contractor, the training will be at an additional expense not to exceed Fourteen Hundred Dollars (\$1,400.00) per day for groups of four new employees or trainees.

A.2.DATA CORRECTION OR RESTORATION

Any data correction or restoration, unless caused by contractor's negligence, will be estimated or bid at the County's request, and invoiced at Contractor's then prevailing rates.

A.3.SUPPORT INITIATED OUTSIDE NORMAL WORKING HOURS

Contractor's normal working hours are 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday, with Federal and State holidays excluded. If the County requires or initiates service outside these hours, the County will pay for such support at Contractor's prevailing rates.

A.4.SOFTWARE IMPLEMENTATION – AUTHORIZED TRAVEL TO COUNTY SITE

If Contractor is required to travel to the County's site to install software, and such travel is previously authorized by the County, the County will pay for the authorized travel to Monterey County, consistent with the maximum IRS rates for travel, as set forth above, in the AGREEMENT at Section 3.A "COMPENSATION", incorporated herein by this reference, as though fully set forth herein.

B. ANNUAL LICENSE FEE

The table below contains the County volume used to calculate the license and support fee to be paid to Contractor. The County warrants that the volumes are as accurate as can be estimated.

The license and annual fees are based on the number of Inspectors specified in Appendix A. Client agrees to pay for additional Inspectors as they are added at Decade's then prevailing license and maintenance fees.

The County will allow Contractor to log onto the County system at least once per year approximately ninety (90) days prior to the Anniversary Date to check the volumes.

If Contractor elects to increase prices for the successive term, Contractor will notify the County in writing at least sixty (60) days prior to the end of the contract term.

Employees/Inspectors To Be Tracked:	46
Full Time Employees:	72
Summer Extra Help Employees:	0
Number of Inspectors Using Field Inspection Software:	0
Number of Facilities To Be Monitored:	7698

Applications Licensed for Use by this AGREEMENT:

1. Core System, and its Support Code tables, with primary applications consisting of:

Owner	Event Training	Co-Owner
E-mail Integration	General Health Program	Self-Audit
General Health Permit	Travel Expense Logging	Daily Activity Logging
Violation Logging	Complaint	Comments
Service Request	Certified Professionals	Violation Enforcement Logging
User-Defined Fields	Facility	
Event Tracking	Involved People	

2. Program Specific Applications, and its Support Code tables, with primary applications consisting of:

Air Quality		
Hazardous Materials	Hazardous Waste	Onsite Septic
Public Water System	Recyclable Materials	Site Remediation
Underground Storage Tanks	Underground Storage Tank Owners	Water Wells

3. Financials, and its Support Code tables, with primary applications consisting of:

Accounts Receivable	Invoices
Invoice Line Items	Transactions History
Scheduled Invoice Items	Batch Payment Posting
Daily Balances	

4. Administration, and its Support Code tables, with primary applications consisting of:

Employee	Employee Training Received
Employee Health and Accident Logging	Processing Error

5. EnvisionConnect Software and its Support Code tables consisting of:

EnvisionConnect Office Use
This does not allow the use of the system on handheld computers.

6. Field Inspection System, and its Support Code tables:

Customer is licensed to deploy a desktop, non-replicated version of the Field Inspection System.
This does not allow the use of the system on handheld computers.

7. System applications, and their Support Code tables not included in this AGREEMENT:

Replicated, field deployed, Field Inspection System.
Web Inspection Query Tool

External Database Lookup

EXHIBIT B

DECADE SOFTWARE COMPANY, LLC

SITE LICENSE AND SUPPORT PROVISIONS

1. PARTIES

This Site License and Support Provisions (hereinafter "PROVISIONS") between Decade Software Company, LLC, with principal place of business at 4201 West Shaw Avenue, Suite #102, Fresno, California 93722 (hereinafter "Decade"), and the County of Monterey (hereinafter "County").

Contract Administrator:

Cindy Reagan, Finance Manager 1
Tel. No. (831) 755-4548
Fax No. (831) 755-4880
E-mail: reaganc@co.monterey.ca.us
1270 Natividad Road, Room 301
Salinas, CA 93906

Technical Support Coordinator:

Donna Davis, DISC
Tel. No. (831) 796-1261
Fax No. (831) 755-4880
E-mail: davisd@co.monterey.ca.us
1270 Natividad Road, Room 301
Salinas, CA 93906

2. ENVISION

These PROVISIONS are for the use and support of a software product called Envision.

The software includes computer programs, in object form, and all related documentation and materials, and all modifications made hereafter, in whole or in part, (hereinafter "Software"). The Software is owned and copyrighted by Decade, and the County will have no rights other than the license to use rights granted in this PROVISIONS.

3. LICENSE

By these PROVISIONS, the County is granted a non-transferable, non-exclusive license to use the Software only on the County's computer system and for the County's use on a system as described below. The County agrees to not allow access to the Software to any third party without written permission from Decade.

A single production version of the Software will be installed on a local area network located at:

Monterey County Environmental Health Department
1270 Natividad Road, Room #301
Salinas, CA 93906

The County may copy Software only for backup and archival purposes. The County agrees to maintain appropriate records on the quantity and location of all such copies, and produce same on demand by Decade. The County agrees to include the copyright notice of Decade on all

copies, in whole or in part, in any form. The County shall receive prior written approval from Decade before copying any portion of the Software for any other purpose.

4. SUPPORT SERVICES PROVIDED BY DECADE

The following services are included in the license and support fee:

- a. **System Setup:** Using WebEx to conference via the Internet, Decade will establish online training dates for up to three times a week to orient and train the County designated employees in system setup. This will be done in advance of the initial training date.
- b. **WebEx:** An Internet support tool used for training and troubleshooting via online conferencing is available to all customers.
- c. **Telephone Support:** Decade will provide telephone support via a toll free number for "How to's" or problem resolution. Problem resolution could involve logging onto the County's system through the Internet or a modem. This support will be provided during Decade's regular business hours, which are 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday, with Federal and State holidays excluded
- d. **E-mail list server:** The County may make use of the dedicated E-mail list server to solicit assistance from Decade and other customers.
- e. **Web-site:** Decade's website is available 24x7. Customers can point their browsers to <http://www.decadesoftware.com/> for the latest software updates, documentation, sample reports and news and information about Decade's products. It can also be used to send e-mail to Decade employees.
- f. **Software Maintenance:** Decade will provide software maintenance, which includes bug fixes, and any other required modifications to keep the Software in conformance with the specifications contained in the then current Decade Reference Manual. Decade will amend the specifications only to remove documentation errors, provide consistency of interpretation or describe improvements to the Software. Decade will correct any error or malfunction in the Software that prevents it from operating in conformance with the specifications, or Decade will provide a commercially reasonable alternative that will conform to the specifications at Decade Software Company.

If Customer's system is inoperable due to reproducible error or malfunction, and Customer is using the then current release of the Software, Decade will provide continuous effort to correct the error or malfunction.

- g. **Internet Knowledgebase:** This service provides access to Decade's internal defect tracking system through an Internet query tool.
- h. If the County's system is inoperable due to a reproducible error or malfunction, and the County is using the then current release of the Software, Decade will provide continuous effort to correct the error or malfunction.
- i. **Upgrades and Enhancements:** Decade will periodically make available upgrades and enhancements of the software to the County. Decade will provide the necessary instructions and software tools for the County to effect upgrades and modifications at Decade Software Company's expense.

The County will maintain its system at the current release level of the Software. Ninety (90) days after the release of a new version of the software, Decade will continue its technical

support but will not be obligated to maintain prior versions.

Decade will have the sole discretion to decide if new Software is a no charge upgrade or enhancement, or a billable offering. Billable offerings are optional, and the County will not be required to purchase them to maintain the current release level.

- j. **User Group Participation:** The County may send representatives to any user group meeting conducted by Decade.
- k. **Refresher Training:** There will be no charge for refresher training conducted at Decade's office on mutually agreeable dates, if the material was covered and the attendee (s) was included in the County's initial training. Refresher training does not include training for new Software or the County staff who have not been trained before, which are fee-based items. New software training charges not included in the services under Exhibit A will need to be quoted and approved by modification of these PROVISIONS or a new provisions.
- l. **List Server.** Decade's clients use a list server to share information. Envision workflows environmental health workflows, user-customized reports, and general questions and answers are available.
- m. **Decade Exchange.** Decade Exchange is a web-based file exchange solution that provides a secure area where clients can share files. Clients have the freedom to upload/download useful reports scripts, and other files at the time most convenient to them. Clients have a searchable archive of environmental health workflows. Envision workflows, user customized reports, scripts, and general questions and answers that can be accessed through keyword searches. Users have the option of drilling down through categories or searching for files by using a search dialog box.
- n. **Client Relationship Management.** The Client Relationship Management (CRM) software application enables Decade to manage every aspect of our relationship with the client. Client information acquired from sales, marketing, client service, and technical support is captured and stored in a centralized database to improve client satisfaction.

5. COUNTY RESPONSIBILITIES

The County is responsible for the following:

- a. Provide knowledgeable, competent operators with an understanding of the County's operations.
- b. Schedule on-site or classroom training to properly prepare the County's staff for using the Software.
- c. Backup files and programs daily or whenever they change, and keep the backup in a secure place.
- d. Notify Decade as soon as problems appear.

6. COUNTY RESPONSIBILITIES UPON TERMINATION

The County will cease using the Software immediately upon termination. Within thirty (30) days of termination, the County will furnish Decade an affidavit certifying that the original and all

copies, in whole or in part, of the Software have been returned to Decade or destroyed by the County.

7. NO LIABILITY FOR EMPLOYMENT BY COUNTY OF DECADE'S STAFF

Client shall not attempt to hire any current or former Decade staff member without prior written consent from Decade

8. LIMITATION OF DECADE'S LIABILITY

Decade warrants that the media used to deliver the Software to the County is free from mechanical or recording defects, and if such defects are found, Decade will immediately replace the defective media.

Decade will not be liable for any damage resulting from loss of data (unless caused by Decade staff accessing the County's computer), profits, use of products, claims by third parties, or for any incidental or consequential damages unless such damages, claims, or losses are caused by Decade's action or inaction or negligence. In no event will Decade's liability exceed the amount paid by Customer for the product or service that caused the claim.

THIS SOFTWARE IS PROVIDED SUBJECT TO THE WARRANTIES AND REMEDIES JUST EXPRESSED, AND IN SECTION 4.F [SA1] OF THIS PROVISIONS, AND, SHALL BE EXPRESSLY SUBJECT TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. ASSIGNMENT BY DECADE

Subject to any and all of the restrictions and terms, as set forth above in Paragraph 7 "NON-ASSIGNMENT" of these PROVISIONS incorporated herein by this reference, and upon the mutual written provisions signed by all of the parties to these PROVISIONS, Decade will have the right to arrange, through contract or otherwise, with any person or organization, to provide product or services to satisfy Decade's obligations of these PROVISIONS. Decade shall be responsible for delivery of product or services to satisfy Decade's obligations to the County pursuant to these PROVISIONS. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements, including the delivery of services or products, under these PROVISIONS.