

**COUNTY OF MONTEREY STANDARD AGREEMENT
(MORE THAN \$100,000)**

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

D&S Communications Inc

(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1.0 GENERAL DESCRIPTION.

1.01 The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

Provide yearly maintenance service, technical support and system upgrades of the County's Mitel phone system

2.0 PAYMENT PROVISIONS.

2.01 County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$ 912,701.54.

3.0 TERM OF AGREEMENT.

3.01 The term of this Agreement is from May 1, 2015 to December 28, 2018, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

3.02 The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS.

4.01 The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions

Exhibit B Pricing Calculations

Exhibit C Parts List

5.0 PERFORMANCE STANDARDS.

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6.0 PAYMENT CONDITIONS.

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7.0 TERMINATION.

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

- 7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.
- 7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

8.0 INDEMNIFICATION.

- 8.01 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 damages to property and injuries to or death of persons, court costs, and reasonable attorneys' 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.

9.0 INSURANCE REQUIREMENTS.

9.01 Evidence of Coverage:

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to

the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

- 9.03 Insurance Coverage Requirements: 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:

Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 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.

(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

9.04 Other Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, 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 days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, **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 the CONTRACTOR'S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on 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.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10.0 RECORDS AND CONFIDENTIALITY.

- 10.01 Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.02 County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.03 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 at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.04 Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.05 Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11.0 NON-DISCRIMINATION.

- 11.01 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal,

state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS.


12.01 If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13.0 INDEPENDENT CONTRACTOR.

13.01 In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an 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 federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

14.0 NOTICES.

14.01 Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Daniel Mikulich, Telecommunications Manager	 Manuel Taveira, National Sales Director
Name and Title 1590 Moffett St Salinas, CA 93905	Name and Title 1355 N. McLean Blvd Elgin, IL 60123
Address	Address
(831) 759-6918	800-494-7978
Phone	Phone

15.0 MISCELLANEOUS PROVISIONS.

- 15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. 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.
- 15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.

- 15.13 Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 Integration. This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

-----*This section left blank intentionally*-----

16.0 SIGNATURE PAGE.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

CONTRACTOR

By: _____
Contracts/Purchasing Officer

Date: _____

By: Dianah Neff
Department Head (if applicable)

Date: 5-14-15

By: _____
Board of Supervisors (if applicable)

Date: _____

Approved as to Form¹

By: Rebecca M. Emmerich
County Counsel

Date: May 11, 2015

Approved as to Fiscal Provisions²

By: [Signature]
Auditor/Controller

Date: 5-13-15

Approved as to Liability Provisions³

By: _____
Risk Management

Date: _____

D+S COMMUNICATIONS, INC.
Contractor's Business Name*

By: [Signature]
(Signature of Chair, President, or Vice-President)*

Jason Kbasak, President
Name and Title

Date: 5/11/15

By: Michael S. Bryniarski
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*

MICHAEL S. BRYNIARSKI SECY
Name and Title

Date: 5/4/15

County Board of Supervisors' Agreement Number: _____, approved on (date): _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit 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.

¹Approval by County Counsel is required

²Approval by Auditor-Controller is required

³Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

EXHIBIT A
SCOPE OF SERVICES/PAYMENT PROVISIONS

I. Service Delivery Site

The service delivery site will be 1590 Moffett St, Salinas, Ca 93905.

II Scope of Services

- A) Provide "D & S Technical Assistance Service Plan" to support the County of Monterey ("County")'s MD-110 Telephone System. "D & S Technical Assistance Service Plan" includes:**
- 1) Support from single service provider:
 - a) One dedicated Toll Free 800#, or support via D & S website as part of the D&S Solutions Center to be used at the County's discretion for all service requested by Monterey County Information Technology Department (ITD).
 - b) Replace all defective MD-110boards listed in Exhibit C Parts List at no cost to the County. Replacement of other defective parts at 80% of D & S's then current list price, on an as-needed basis, need to be determined by County.
 - c) Remote Diagnostics
 - d) Isolation of the source of problem(s)
 - e) Dispatching technician to the County site, as needed, need to be determined by the County.
 - f) Telephone support
 - g) Installation of manufacturer's Corrective Software Updates
 - h) Support on a 24 Hour by 7 Day basis from D & S Solution Center
 - i) Installation of remote Software Moves, Add-ons, and Changes, billable at the rates set forth in Section IV below.
 - 2) Defined Service Response Time:
 - a) Coverage Hours: 7am -7pm, Monday through Friday, with County holidays excluded. Service outside Coverage Hours shall be provided based on the time of service, at rates set forth in Section IV below.
 - b) On -Site or Remote Response within three (3) hours of initial call from County, for major failures, provided at hourly rates set forth in Section IV below.
 - c) On-Site or Remote Response within twenty-four (24) hours of initial call from County, for minor failures, provided at hourly rates set forth in Section IV below.

d) Internal escalation procedures that provide County, through the D & S Solution Center, with direct access to manufacturer technical support

3) Services Included:

a) The following Services are included as a part of this agreement, see Exhibit B for pricing:

- i) Technical Assistance Service Plan (TASP)
- ii) Hardware Assurance Plan (HAP)
- iii) Service Pack Program (SPP)
- iv) Aastra/Mitel Software Assurance & Escalation

b) Service Pack Program

i) Includes two (2) on-site visits per fiscal year to update the MD 110 system to the latest Service Pack, including hot fixes and corrections.

- A The County shall provide D & S with one-week notice to schedule a SPP visit.
- B D & S shall complete all service packs for all products during each visit.
- C Unused visits cannot be used in future years.

ii) Additional visits required to update service packs shall be provided at a cost of:

- A \$4,800 for MD-I 10 system
- B \$1,000 for Solidus system

iii) Includes On-site and remote labor

c) Hardware Assurance Program

If any MD-110 board listed in Exhibit C Parts List fails in the course of normal usage and normal circumstances, D & S will expedite shipment of a replacement board to County at no charge. The MD-110 boards provided to County will be in good working condition and may be new or refurbished. County will ship MD-110 boards that fail to D & S where they will be repaired and become the property of D & S.

- i) D & S will set aside and hold in reserve critical MD-110 boards for County at D & S facilities
- ii) The Hardware Assurance Program does not cover non-MD-110 trunk equipment such as peripheral equipment (PC's, servers, headsets, etc.) The Hardware Assurance Program also does not apply to extension or trunk equipment, telephones, batteries, firmware, or

software, or consumables such as batteries or fuses.

- d) The equipment covered by the Hardware Assurance Program is listed in Exhibit C attached.
- e) Aastra/Mitel Software Assurance & Escalation
 - i) Aastra/Mitel will provide software upgrades to the County as required in order to keep software components under full manufacturer's support.
 - ii) D & S will engage Aastra/Mitel as needed to escalate technical support issues related to bug-fix of purchased software products.

B) D & S Responsibilities:

- 1) D & S shall replace all products listed in Exhibit C, attached as described in the Hardware Assurance Plan in "Scope of Services" (section A,3,c).
- 2) D & S shall perform and respond to all calls for Corrective Maintenance placed during coverage hours noted in section A)2)a) above.
- 3) Should Manufacturer discontinue products or services that affect D & S's ability to perform this agreement, D & S shall meet with the County to discuss alternative solutions and pricing.
- 4) When required, D & S may change maintenance level passwords in accordance with the County of Monterey Information Technology Security Policy. These passwords are for the use of service personnel. D & S may provide the password to the manufacturer of the Product for escalated technical support from the manufacturer. D & S will create a system administration password for the County's use to perform agreed-upon tasks, using the database configuration outlined in D & S's security policy. Except as noted herein, the County and D & S agree not to disclose these passwords without obtaining the prior written consent of the other party.
- 5) D & S shall provide 30 days' notice to the County of any additional charges proposed in advance of charges being incurred. Failure by D & S to provide prior notice relieves the County of responsibility for such charges.

C) County Responsibilities:

- 1) The County shall designate one individual and one alternate to be responsible for coordinating and reporting service calls to D & S, and for assisting D & S in identifying and isolating problems as reasonably requested from D & S.
- 2) The County agrees to permit or arrange for access to the necessary Premises for D & S service personnel and to provide remote access to County's MD-110 Telephone System and its components ("the

Products”) for service purposes.

- 3) The County agrees to provide space at or near the Products for storage of miscellaneous pieces, parts, and drawings, as reasonably required by D & S at the County's expense.
- 4) For Convergence and Data Products, the County will be responsible, if requested, to provide an up-to-date directory listing for all telephones, indicating extension number, name of employee, functional title, and location.
- 5) For *CTI/IDN* Products, the County shall provide a D & S-approved power conditioner to support the contracted network server and other critical components. The County shall be responsible for maintaining back up media, systems, and procedures sufficient to meet the County's internal restoration time requirements.
6. Environmental Conditions:
 - a) The County shall provide and maintain the Premises in compliance with all applicable laws and regulations and according to the environmental specifications established by D & S and *I* or the manufacturer of the Mitel telephone system. If either party becomes aware of asbestos, hazardous materials, or concealed conditions on the County's premises, that party shall notify the other party promptly, and it shall be the County's responsibility to correct all such conditions.
 - b) D & S reserves the right to cease performing services, after notice to County, if in its reasonable judgment, its ability to perform such services properly and safely is unduly hampered by the County's acts or omissions, or workplace conditions on the premises.
 - c) The County acknowledges that the Products serviced here under are vulnerable to network interference or to fraudulent or unauthorized calls or access, and any such charges shall be the responsibility of the County.

D) Relocation of Products

Upon ninety (90) days prior written notice, the County may, at the County's expense, relocate and reinstall the Products within the boundaries of the County of Monterey and this agreement will remain in effect.

III. Term of the Agreement

The term of this Agreement shall be from May 1, 2015 to December 28, 2018.

IV Schedule of Rates

- A) Billable Service / Exclusion from Service:
- 1) In addition to Charges noted in Section B below, the County will be billed at current Time and Materials Rates for services performed by D & S due to any of the below circumstances:
 - a) The County's failure to follow D & S and/or the manufacturer's maintenance or operation instructions for the Product;
 - b) Theft, strikes, riots, vandalism, acts of war, lightening, water, fire, and other perils;
 - c) Work performed by persons other than D & S personnel or without D & S's supervision;
 - d) Shock, corrosive atmosphere, electrical damage, air conditioning or humidity control failure;
 - e) Services calls necessitated by products not serviced by D & S;
 - f) Normal wear and tear of disposable items such as headsets, magnetic tapes, wet cell batteries, and operating media;
 - g) Service requested outside of coverage hours (M-F, 8 am – 5pm)
 - h) Time required to identify or isolate a problem due to a patch, alteration, or repair made by the County without D & S's prior written consent
 - i) Any cause other than the County's ordinary and proper use of the Products which could result in the need to restore system software.
 - 2) D & S reserves the right, at the County's expense and at D & S's current Time and Material rates noted in Section B, to inspect any product that has not been serviced by them immediately prior to the Effective Date of this Agreement and to require that any non-conforming product meet D & S or the original manufacturer's specifications. D & S shall notify the County within 30 days of the effective date of this agreement of any product which may be affected by this clause.
 - 3) Labor and materials for moves, added services and changes are not included in the Technical Services Plan and may be billed at Time and Materials rates noted in Section 6 below.
 - 4) This agreement does not guarantee the replacement of batteries after the warranty period. D & S's liability for battery back-up systems is limited to battery testing, which is part of normal preventative maintenance routines.

- 5) This agreement does not cover headsets.
- 6) Any services provided under a time and materials basis will be billed at the following rates:
 - a) Monday -Friday 8am -5pm Pacific (Principal Period):
\$120.00 per hour
 - b) Monday - Saturday outside of Principal Period:
\$180.00 per hour
 - c) Sundays and County Holidays:
\$240.00 per hour
 - d) Minimum billing time for remote services shall be one half hour. Additional time for remote services, after initial one hour, shall be billed in one hour increments
 - e) Minimum billing time for on-site services shall be four hours. Additional time for on-site services, after four hours, shall be billed in one hour increments.
 - f) D & S shall offer pricing that is 20% below manufacture's list price for Astra/Mitel products.

V. Payment Provisions

- A. For the services described in this Agreement within the term specified above, the maximum obligation of the County will be \$912,701.54. The payment conditions as specified in Section 6 of the body of this agreement shall apply.
- B. Travel reimbursement shall be in accordance with and shall not exceed the IRS allowances per County of Monterey Travel Policy. A copy of the County's Travel Policy is available on the Auditor-Controller's web site at:
<http://www.co.monterey.ca.us/auditor/policy.htm>.
- C. D & S shall submit invoices and be compensated in accordance with the Provisions of 6.0 of the County of Monterey Standard Agreement
- D. D&S will invoice the County 45 days prior to the expiration of manufacture software agreement to allow time to process this payment to avoid lapse in services agreement
- E. Invoices shall be submitted no more than once per month and shall be mailed to

Monterey County Information Technology
1590 Moffett Street
Salinas, Ca 93905
Attn: Accounts Payable

If for any reason this Agreement is cancelled, County's maximum liability shall be the total utilization to the date of cancellation, not to exceed the maximum contract amount listed above.

Exhibit B Pricing Table			
D&S Services - Recurring			
Main Site	May 1, 2015 - Apr 30, 2016	May 1, 2016 - Apr 30, 2017	May 1, 2017 - Apr 30, 2018
Technical Assurance Support Program (TASP) (MX-ONE, Solidus)	\$ 54,756.99	\$ 56,125.92	\$ 57,529.06
Hardware Assurance Program (HAP)	\$ 20,331.25	\$ 21,856.09	\$ 22,402.50
Service Pack Program (SPP) MX-ONE	\$ 10,820.25	\$ 11,090.76	\$ 11,368.03
Service Pack Program (SPP) Solidus	\$ 5,410.13	\$ 5,545.38	\$ 5,684.01
Service Pack Program (SPP) Lab MX-ONE	\$ 1,571.33	\$ 1,610.61	\$ 1,650.87
911 Center			
Technical Support Program (TASP)	\$ 1,345.31	\$ 1,446.21	\$ 1,482.37
Service Pack Program (SPP) MX-ONE	\$ 920.00	\$ 920.00	\$ 943.00
Subtotal support	\$ 95,155.26	\$ 98,594.97	\$ 101,059.84
Aastra/Mitel Software Assurance & Escalation - Recurring			
Main Site	Oct 26, 2015 - Oct 25, 2016	Oct 26, 2016 - Oct 25, 2017	Oct 26, 2017 - Oct 25, 2018
Main Phone System - TSE	\$ 77,484.86	\$ 77,484.86	\$ 77,484.86
Main Site			
	Dec 29, 2015 - Dec 28, 2016	Dec 29, 2016 - Dec 28, 2017	Dec 29, 2017 - Dec 28, 2018
Lab - TSE	\$ 1,145.63	\$ 1,145.63	\$ 1,145.63
Main Site			
	June 1, 2015 - May 31, 2016	June 1, 2016 - May 31, 2017	June 1, 2017 - May 31, 2018
Main Phone System - Solidus	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
911 Center			
	Dec 15, 2015 - Dec, 14, 2016	Dec 15, 2016 - Dec, 14, 2017	Dec 15, 2017 - Dec, 14, 2018
911 -TSE	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
TOTAL Aastra/Mitel Escalation	\$ 130,630.49	\$ 130,630.49	\$ 130,630.49
Subtotal Yearly Recurring Costs	\$ 225,785.75	\$ 229,225.46	\$ 231,690.33
Additional Costs as Approved by County			
October 26, 2014 - December 14, 2018			
Travel	\$ 26,000.00		
Professional Services*	\$ 100,000.00		
Additional Software Assurance/Escalations	\$ 100,000.00		
Total Agreement Amount	\$ 912,701.54		
<i>*Services, requested & approved by County that are not included in the software maintenance & technical support services.</i>			

EXHIBIT C - EXISTING INSTALLED AND STOCK PARTS

Board Type	Part Number
GJUL4	ROF1375393/1
TMU	ROF1375335/2
ELU28	ROF135334/3
ELU29	ROF1375339/14
TLU77/1	ROF1375387/1
LPU5	ROF1314602/3
LSU	ROF13714413/5
DSU	ROF1374414/4
ALU2	ROF1375373/1
BTU1	ROFU1310007/2
ELU30	ROF1375409/2
ELU24	ROFU1310021/1
TLU41	ROF1375381/1
GJUG5	ROF1375389/2
GSU	ROF1375390/1
GCU2	ROF13114493/2
GPU	ROF1375394/1
ELU32	ROF1375428/1
NIU/1	ROF1375396/1
NIU/2	ROF1375396/2
HDU5	ROF1375395/1
TLU82	ROF1375418/2
TLU80	ROF13754064
TLU77/3	ROF135387/3
TLU76/3	ROF1375338/3
TLU76/2	ROF1375338/2
SPAN CONVERTER	ROF1375399/1
IPLU	ROF1375067/1
ELU31	ROF1375412/1
ESU	1376301/1
LSU-E	ROF1376302/1
MGU	ROF1376304/2
DSU	ROF1314414/14
DC/DC POWER	ROF1376303/1
TLU83	ROF1376305/1
WD HD	SNWXB1A5395605