



**District Attorney
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
J. STEVEN WORTHLEY
District Four
MIKE ENNIS
District Five

AGENDA DATE: September 25, 2018

Public Hearing Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Published Notice Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Advertised Published Notice	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
County Counsel Sign Off	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Meet & Confer Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Personnel Resolution attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
CONTACT PERSON: Dan Underwood PHONE: 636-5494		

SUBJECT: Approve adjustments to the District Attorney’s budget.

REQUEST(S):
That the Board of Supervisors:
Approve necessary budget adjustments per the attached AUD 308 (4/5ths vote required).

SUMMARY:
At the Board meeting on August 21, 2018, your Board approved an agreement with Journal Technologies in the amount of \$476,000, as agreement number 28790. The Board Agenda Item for that agreement failed to include a request to approve the AUD 308 that was attached to the item. Through this Board Agenda Item, the department seeks to get approval of the AUD 308 associated with the previously approved agreement with Journal Technologies.

FISCAL IMPACT/FINANCING:
The detailed fiscal impact related to the purchase of the system was already approved through Resolution Number 2018-0689. There is no Net County Cost associated with this request.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:
The County’s five-year Strategic Business Plan includes an Organizational Performance strategic initiative, to continuously improve organizational effectiveness and fiscal stability. This includes providing state-of-the-art technology and infrastructure to support better service delivery. The purchase of this case management system will assist our office in meeting that initiative.

SUBJECT: Approve adjustments to the District Attorney's budget
DATE: September 25, 2018

ADMINISTRATIVE SIGN-OFF:



Dan Underwood
Chief Deputy District Attorney

Cc: County Administrative Office

Attachments: 1) Agreement with Journal Technologies
2) AUD 308

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF APPROVE
ADJUSTMENTS TO THE DISTRICT
ATTORNEY'S BUDGET

)
) Resolution No. _____
) Agreement No. _____
)

UPON MOTION OF SUPERVISOR _____, SECONDED BY SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

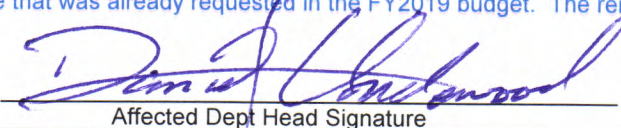
ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

Approved necessary budget adjustments per the attached AUD 308 (4/5ths vote required).

County of Tulare — Auditor Controller Budget Adjustment Form

08/07/18							02/2019		2019		8:24 AM
Date				Document ID Number			Accounting Period		Budget Fiscal Year		
				District Attorney			Rainbow Moore		205-1003		
				Agency Name			Contact Person		Phone		Extension
Action** A,C,D	Fund	Dept	Appr #				LEVEL 1 Finish Here	Current Amount	Revised Amount	Inc / Dec Amt	
C	001	100	100CAP						476,000	476,000	
C	001	100	100SSUP					2,592,311	2,517,311	(75,000)	
										-	
										-	
										-	
										-	
										-	
Appropriations Total							<i>Need Not Equal Zero</i>	2,592,311	2,993,311	401,000	
Action** A,C,D	Fund	Dept	Appr #	Unit	Object	Rev	LEVEL 2 Start Here	Current Amt	Revised Amount	Inc / Dec Amt	
A	001	100	100CAP	3200	8307				401,000	401,000	
A	001	100	100CAP	3700	8307				75,000	75,000	
C	001	100	100SSUP	3700	7043			80,105	5,105	(75,000)	
C	001	100		3200		9291		200,000	601,000	(401,000)	
										-	
										-	
										-	
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										-	
										-	
										-	
										-	
										-	
Line Total							<i>Must Equal Zero</i>	\$ 280,105	\$ 1,082,105	\$ -	
Reason for Adjustment (To Avoid Correspondence, State Reason in Detail)											
<p>We need to capitalize the entire system's purchase amount of \$476,000. Of the \$476,000, \$75,000 is coming from the 001-100-3700-5223, revenue that was already requested in the FY2019 budget. The remainder is coming from Consumer Fraud Fund (Trust 423).</p>											
 Affected Dept Head Signature						_____ Other Affected Dept Head Signature					
Checked By: _____ County Executive Office Action: No. _____ Date: _____ () Approved () Disapproved								Entered By: _____ Date: _____ Distribution: 1: BOS/CAO/Auditor			
By: _____ Board of Supervisors Action: No. _____ Date: _____											
** Action Codes: A=Add, C=Change, D=Deactivate * Whenever a 93XX account budget is adjusted, a corresponding 94XX account budget must be adjusted in the billing agency, except for ISFs * Whenever a 95XX account budget is adjusted, a corresponding 96XX account budget must be adjusted in the billing agency, and vice versa * Whenever a 97XX account budget is adjusted, a corresponding 98XX account budget must be adjusted in the billing agency, and vice versa											

AGREEMENT

THIS AGREEMENT is made and entered into this 21 day of August, 2018 ("Effective Date"), by and between the **COUNTY OF TULARE**, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and **JOURNAL TECHNOLOGIES, INC.**, a Utah corporation, whose address is at 915 E. 1st Street, Los Angeles, CA 90012, hereinafter referred to as "CONTRACTOR." COUNTY and CONTRACTOR may be referred to herein collectively as "Parties," or singularly as a "Party."

RECITALS

WHEREAS, COUNTY desires to purchase software license, installation, training, data conversion, interfaces and software maintenance and support for a new case management system for its District Attorney's Office.

WHEREAS, COUNTY desires to purchase from CONTRACTOR, and CONTRACTOR desires to provide to COUNTY, continuous maintenance and support services for eProsecutor, subject to payment by COUNTY for such services and other terms and conditions set forth herein; and

WHEREAS, COUNTY and CONTRACTOR desire to execute this Agreement for the purchase of the right to use the software license, and maintenance and support of eProsecutor software.

NOW, THEREFORE, for and in consideration of the promises herein, and for other good and valuable consideration, the Parties agree as follows:

WITNESSETH

I. DOCUMENTS CONSTITUTING AGREEMENT.

This Agreement includes COUNTY's LIST OF REQUIREMENTS and CONTRACTOR's Response to COUNTY's requirements (Exhibit C)

Upon Application Acceptance by the COUNTY (as defined hereinbelow), any description of the Application or components, requirements, or criteria related thereto, as set forth in the COUNTY's REQUIREMENTS and CONTRACTOR's Response, shall be superseded and replaced by the Application as accepted by COUNTY at the time of Application Acceptance.

II. DEFINITIONS.

The following terms used throughout this Agreement shall be defined as follows:

Acceptance Criteria: Such set of tests and protocols that CONTRACTOR and COUNTY may mutually develop from time to time hereunder, for the purpose of determining whether a particular deliverable performs in accordance with a Statement of Work or similar writing agreed to by the Parties.

Additional Maintenance and Support Services or Additional Maintenance Services: As defined in Section III.D.

Additional Service Fees: As defined in Section VII.F.

Annual License and Maintenance Fees: Annual fees to be paid by COUNTY to CON-

TRACTOR in accordance with Section VII.A.

Application: The Application Software and Application Documentation, collectively. Reference to the "Application" shall include any component thereof. All modifications and enhancements to the Application shall be deemed to be part of the Application as defined herein and shall be subject to all terms and conditions set forth herein. The Application consists of eProsecutor, which supports the Tulare County District Attorney's Office, all interfaces, and third party software required for the Application to function.

Application Acceptance: When it is determined by COUNTY in its reasonable judgment that a particular deliverable provided by CONTRACTOR and, if applicable, installed in COUNTY's environment pursuant to a particular Statement of Work, performs in accordance with and conforms to the applicable Acceptance Criteria; provided, however, that whenever Application Acceptance is required herein, it shall be conclusively deemed to have been given by COUNTY if COUNTY has not provided written notice to CONTRACTOR prior to the First Production Use date.

Application Documentation: The documentation relating to the Application Software and all manuals and other materials, in each case in electronic form, comprising documentation provided by CONTRACTOR in connection with the Application Software pursuant to this Agreement.

Application Software: eProsecutor and eProsecutorPublic, collectively, that certain computer software described in this Agreement provided by CONTRACTOR, and all interfaces and similar materials comprising such software. Application Software shall not include operating system software, third party software, or COUNTY Data.

Application Updates: As defined in Section III.A.4.

COUNTY'S Contract Administrator: As defined in Section IV.A

COUNTY's Project Coordinator: As defined in Section IV.A

COUNTY Data: All information, data, materials, reports, documents, statistics, records used by, produced by, or stored by the APPLICATION, either directly or indirectly, either converted or unconverted, that has been provided by COUNTY or on COUNTY's behalf, or by any users of the APPLICATION, or derived from any of the above, either prior to the Effective Date or during the term of this Agreement.

COUNTY System Hardware: The computers owned or leased by COUNTY on which COUNTY is licensed to use the Application Software, any back-up equipment for such computers, and any peripheral hardware such as terminals, printers, and computers as described in this Agreement.

COUNTY System Software: The operating system and database software installed on the COUNTY System Hardware.

District Attorney Users: As defined in Section VII.A.1.

Escrow Agreement: As defined in Section III.A.7.

First Production Use: Date of first use of the Application or any portion thereof in a produc-

tion environment.

Information: As defined in Section IX.

License: The license granted pursuant to Section III.A of this Agreement, including the rights and obligations such License creates under the laws of the United States of America and the State of California including without limitation, copyright and intellectual property law.

New Products: As defined in Section III.F.2.

Public Documentation: Documentation, if any, associated with the operation of the Public Interfaces.

Public Interfaces: Portion of the Application Software that is accessible to users outside of COUNTY consisting of eProsecutorPublic and any other public interfaces provided by CONTRACTOR.

Statement of Work: An executed document, subject to the terms of this Agreement, that specifies and describes the planning, execution, completion, and scheduling of the tasks and services mutually agreed to by the Parties pursuant to this Agreement.

Total Users: As defined in Section VII.A.2.

Unauthorized Access to Source Code: As defined in Section III.D.2.

User: User means (a) any individual person, computer terminal or computer system (including, without limitation, any workstation, pc/cpu, laptop and wireless or network node) in the COUNTY District Attorney's Office that has been authorized by COUNTY (through a username and password) to use the Application, (b) any other government employees and contractors not in the COUNTY District Attorney's Office who are performing their jobs, or a computer terminal or computer system used by such a person, in each case accessing the Application through its Public Interfaces, or (c) any individual person who is a member of the general public (including litigants and their attorneys, reporters and interested citizens, but not government employees or contractors who are performing their jobs), or a computer terminal or computer system used by such a person, in each case accessing the Application through its Public Interfaces at any given time for any reason (including to file documents electronically or to view information already in or accessible through the Application).

III. OBLIGATIONS OF THE CONTRACTOR.

A) SOFTWARE LICENSE:

1) GRANT OF LICENSE: During the term of this Agreement, CONTRACTOR grants to COUNTY and COUNTY accepts a non-exclusive, non-transferable, personal license to use Application Software, subject to the terms and conditions set forth in this Agreement.

2) SCOPE OF LICENSE: The license granted herein shall consist solely of the non-exclusive, non-transferable, personal right of COUNTY to operate the Application Software in support of various COUNTY departments, including COUNTY's District Attorney's Office.

3) OWNERSHIP: The Parties acknowledge and agree that, as between CONTRAC-

TOR and COUNTY, title and full ownership of all rights in and to the Application Software, Application Documentation, and all other materials provided to COUNTY by CONTRACTOR under the terms of this Agreement shall remain with CONTRACTOR. COUNTY shall take reasonable steps to protect trade secrets of the Application Software and Application Documentation. Ownership of all copies shall be retained by CONTRACTOR. COUNTY may not disclose or make available to third parties the Application Software or Application Documentation or any portion thereof, with the exception of Public Interfaces and Public Documentation. CONTRACTOR shall own all right, title and interest in and to all corrections, modifications, enhancements, programs, derivative works, adaptations, and work product conceived, created or developed, alone or with COUNTY or others, as a result of or related to the performance of this Agreement, including all proprietary rights therein and based thereon. Except and to the extent expressly provided herein, CONTRACTOR does not grant to COUNTY any right or license, express or implied, in or to the Application Software and Application Documentation or any of the foregoing. The Parties acknowledge and agree that, as between CONTRACTOR and COUNTY, full ownership of all rights in and to all COUNTY Data, whether in magnetic or paper form, including without limitation printed output from the Application, are the exclusive property of COUNTY.

4) POSSESSION, USE AND UPDATE OF SOFTWARE: COUNTY agrees it shall use the Application Software for its own internal purposes, with the exception of Public Interfaces, which COUNTY may use and have members of the public use in accordance with the Public Documentation. CONTRACTOR may create, from time to time, updated versions of the Application Software and Application Documentation. ("Application Updates"). CONTRACTOR shall make such Application Updates available to COUNTY. All Application Updates shall be licensed in the same manner, and subject to the same terms and conditions, as the Application Software and Application Documentation. CONTRACTOR shall assist COUNTY in making Application Updates (including security patches to the Application Software). To the extent COUNTY makes the updates, COUNTY agrees to follow the prescribed instructions for updating Application Software and Application Documentation provided to COUNTY by CONTRACTOR.

5) TRANSFER OF SOFTWARE: COUNTY shall not rent, lease, license, sublicense, distribute, sell, transfer, or assign this License or any of its rights to the Application Software or the Application Documentation, with the exception of Public Documentation which may be accessed and used by third parties, or any of the information contained therein other than COUNTY Data, to any other person or entity, whether on a permanent or temporary basis, and any attempt to do so shall constitute a breach of this Agreement. No right or license is granted under this Agreement for the use or other utilization of the licensed programs, directly or indirectly, for the benefit of any other person or entity, except as provided in this Agreement.

6) POSSESSION AND USE OF SOURCE CODE: Source code and other material that result from custom programming by CONTRACTOR delivered to COUNTY under this License shall be deemed CONTRACTOR Application Software subject to all of the terms and conditions of the software license set forth in this Agreement. The scope of COUNTY's permitted use of the custom source code under this license shall be limited to maintenance and support of the Application Software. For purposes of this Section III.A.6, the term "maintenance and support" means correction of Application Software errors and preparation of Application Software modifications and enhancements. If COUNTY independently creates computer code that is complementary to the Application Software but is not in any way derivative of the Application Software, the new code shall be owned by COUNTY, shall not be deemed to be Application Software as such term is used herein, and may be used by COUNTY's employees, officers, or agents for COUNTY's own internal business operations. However, if COUNTY's enhancement results in the creation of a derivative work from the Application Software, it being acknowledged by COUNTY that the creation

of a derivative work from the Application Software is expressly forbidden herein, the copyright and other intellectual property rights to such derivative work shall be owned by CONTRACTOR.

7) SOURCE CODE ESCROW: On or before the date of First Production Use, CONTRACTOR shall place a copy of the source code for the Application Software into escrow pursuant to the Software Escrow Agreement executed between CONTRACTOR and escrow agent InnovaSafe, Inc., ("Escrow Agreement"), an executed copy of which is attached hereto as Exhibit E. CONTRACTOR further agrees that on or before the date of First Production Use, COUNTY shall be named as a beneficiary under the Escrow Agreement, at which time COUNTY's Contract Administrator shall execute the Beneficiary Acknowledgement Form attached to the Escrow Agreement. CONTRACTOR shall pay the Annual Beneficiary Fee to InnovaSafe, Inc. as provided in the Escrow Agreement and provide verification of the payment to COUNTY within thirty (30) days. CONTRACTOR agrees to release the Deposit referenced in the Escrow Agreement to COUNTY pursuant to the conditions set forth in the Escrow Agreement. CONTRACTOR shall improve, add to, or otherwise modify the source code deposited into escrow prior to or near the time any modifications of the software are available to any of CONTRACTOR's customers. CONTRACTOR shall be responsible for all payments owed to the escrow agent.

8) RESTRICTIONS ON USE: In addition to any other restrictions on use of the Application set forth herein, COUNTY shall not modify or make derivative works based upon the Application Software or the Application Documentation.

9) INTELLECTUAL PROPERTY, TRADEMARK AND COPYRIGHT: CONTRACTOR retains ownership of the Application Software, any portions or copies thereof, and all rights therein. CONTRACTOR reserves all rights not expressly granted to COUNTY. This License does not grant COUNTY any rights in connection with any trademarks or service marks of CONTRACTOR, its suppliers or licensors. All right, title, interest and copyrights in and to the Application Software and the accompanying Application Software Documentation and any copies of the Application Software are owned by CONTRACTOR, its suppliers or licensors. All title and intellectual property rights in and to the content which may be accessed through use of the Application Software are the property of the respective content owners and may be protected by applicable copyright or other intellectual property laws and treaties. This License grants COUNTY no rights to use such content.

B) SERVICES TO BE PROVIDED BY CONTRACTOR TO COUNTY:

1) APPLICATION INSTALLATION: CONTRACTOR shall supply and install eProsecutor in accordance with this Agreement and any Statement of Work. Such software installation shall include hardware/network review and recommendations, consultation, software installation and remote technical support. CONTRACTOR shall be present onsite at the COUNTY for the initial installation and testing of the Application at no additional cost to COUNTY. In no event shall CONTRACTOR be responsible for providing any hardware, accessories, and appliances necessary to enable the installation of the Application.

2) TRAINING: CONTRACTOR shall provide unlimited implementation and configuration training through the date of First Production Use. This shall include "train-the-trainer" training of COUNTY staff at COUNTY-designated locations within the County of Tulare and during normal business hours, in each case approved in writing by COUNTY, at no additional cost to COUNTY.

3) DOCUMENTATION: Prior to the First Production Use, CONTRACTOR shall provide

to COUNTY eProsecutor Application Documentation, which shall consist of electronic media files and shall be made available through the Application itself. The electronic media files must be printable using computer software normally available at COUNTY. At COUNTY's reasonable request, CONTRACTOR shall provide new Application Documentation corresponding to all new Software Upgrades. COUNTY may print additional copies of all documentation. All Application Documentation is to be used by COUNTY only for the purposes identified within this Agreement.

4) STATEMENT OF WORK:

a) Timeline: Following the Effective Date, CONTRACTOR and COUNTY shall cooperate with each other to prepare a mutually agreeable Statement of Work within four (4) weeks following the Effective Date (or such other period agreed upon between the Parties in writing). If no Statement of Work can be agreed upon during the time period prescribed herein or such other mutually agreed upon period, CONTRACTOR and COUNTY shall then meet at intervals of not more than once every two (2) weeks (or such other period agreed upon between the Parties in writing) in order to reach agreement on a Statement of Work. The Statement of Work shall be executed by the COUNTY's Project Coordinator (as defined in Section IV.A) and CONTRACTOR's authorized representative.

b) Contents: The Statement of Work shall specify (i) the functionalities of the Application and the assignment of implementation and configuration responsibilities to each of the Parties, and (ii) the project implementation agenda and project work plan, in a form agreed upon by the Parties.

c) Changes to the Statement of Work: Any changes to the Statement of Work shall be effective only if set forth in a written amendment to the Statement of Work and agreed upon by both Parties through their authorized representatives. Upon a request to make a change to the Statement of Work by either Party, the other Party shall explain to the requesting Party the feasibility of a change, the impact of a change on the Application and the implementation schedule, and any resource requirements.

d) Subsequent Statement of Work: During the term of this Agreement, COUNTY may request CONTRACTOR to provide services not otherwise provided in the Statement of Work and shall submit a reasonably detailed request to CONTRACTOR for such services. Following receipt of such a request, COUNTY and CONTRACTOR shall reasonably cooperate to agree upon a proposed "Subsequent Statement of Work" that is mutually satisfactory to both COUNTY and CONTRACTOR in each Party's sole and absolute discretion.

5) STATUS REPORTING: Each of COUNTY and CONTRACTOR shall provide written bi-weekly status reports to the other Party.

6) STATUS MEETINGS: CONTRACTOR shall be available for bi-weekly status meetings with COUNTY via conference call or on-site at COUNTY locations.

C) APPLICATION MAINTENANCE AND SUPPORT BY CONTRACTOR:

Application maintenance support includes Application Updates as they are released by CONTRACTOR. CONTRACTOR agrees to assist COUNTY to keep system updated in order to avoid any lapse of maintenance support. Application-maintenance support includes updates required as a result of regulatory changes to applicable federal and California state reporting requirements. Updates required as a result of other state or county laws or regulations will require a

separate Statement of Work. If an error is categorized as "Critical" (meaning an error for which there is no workaround and which causes data loss, affects a mission critical task or poses a possible security risk that could compromise the system), CONTRACTOR shall provide a solution through a service release as soon as possible. CONTRACTOR shall have no obligation to correct any errors in any version of the Application Software other than the current version, with the exception of any Critical error, for which a service release shall be provided for the most recent previous version as well. CONTRACTOR shall thereafter support day-to-day operation of the Application as follows:

1) SUPPORT HOURS/SCOPE: During the term of this Agreement, CONTRACTOR shall provide access to technical assistance for the Application during the hours of 6:00 a.m. to 6:00 p.m. Mountain Standard Time (MST) or Mountain Daylight Time (MDT), as applicable, Monday through Friday (For purposes of this Agreement, "Support"). CONTRACTOR shall provide such Support by means of a toll-free telephone number, email, or online chat assistance or, with respect to the eProsecutor API, via the API Support Internet Forum. COUNTY shall designate one or more Application Administrators, each of whom shall be an employee or contractor of COUNTY, and shall notify CONTRACTOR in writing of the initial list of designated Application Administrators before making Support requests, as well as any changes to the list of designated Application Administrators promptly after making such changes. Only a designated Application Administrator may request Support. It is the responsibility of COUNTY to instruct Users to route support requests through the Application Administrator. No Support shall be provided with respect to any request made by a person who is not an Application Administrator. The purpose of this Support shall be to answer specific questions related to the Application, diagnose and resolve technical issues arising out of the use of the Application, and correct problems or performance deficiencies with the Application. In no event does any Support provided under this Agreement include support for (a) any error caused by hardware, network infrastructure, operating system problems; (b) operator errors related to processes, interfaces (unless created by CONTRACTOR), or other software; (c) the operation of hardware; or (d) solving other hardware/software problems unrelated to the Application Software.

2) SUPPORT RESPONSE: During the term of this Agreement, CONTRACTOR shall use all reasonable diligence to correct all verifiable and reproducible errors or malfunctions in the Application reported to CONTRACTOR and shall, after verifying that such error or malfunction exists, work in a diligent manner toward development of a solution.

CONTRACTOR shall provide COUNTY with corrective documentation and/or programs as may be necessary in CONTRACTOR's sole discretion. CONTRACTOR shall deliver an initial response to COUNTY's service request no later than four (4) business hours (within the business hours set forth in Section III.C.1) after a call has been received by CONTRACTOR.

3) REMOTE VIRTUAL PRIVATE NETWORK (VPN) DIAGNOSTICS: During the term of this Agreement, CONTRACTOR shall provide remote VPN Diagnostics Support as follows:

- a) Diagnostic or corrective actions necessary to restore eProsecutor operation;
- b) Diagnostic actions which attempt to identify the cause of an Application problem;
- c) Correction of data file problem; and
- d) eProsecutor modifications

CONTRACTOR product specialists shall provide diagnostics via VPN on eProsecutor. COUNTY shall provide required VPN access accounts necessary at COUNTY for CONTRACTOR VPN support.

4) **ERROR CORRECTION PROCESS:** If during the term of this Agreement COUNTY determines that software error(s) exist, COUNTY shall first follow the error procedures specified in the Application Documentation. If following the error procedures does not correct the software error, COUNTY shall immediately notify CONTRACTOR, setting forth the defects noted with specificity. Upon notification of a reported software error, CONTRACTOR shall provide a solution as soon as practicable. If CONTRACTOR determines that a solution shall require more than one day to resolve, CONTRACTOR shall notify COUNTY immediately with a time estimate for completion, it being understood that such an estimate is not a guarantee.

5) **TECHNICAL INFORMATION:** CONTRACTOR shall provide technical information to COUNTY from time to time. Such information may cover areas such as eProsecutor usage, third party software, and other matters considered relevant to COUNTY by CONTRACTOR. Technical information shall be provided at the reasonable discretion of CONTRACTOR.

D) ADDITIONAL APPLICATION MAINTENANCE SERVICES BY CONTRACTOR:

CONTRACTOR may provide additional maintenance services (“Additional Maintenance and Support Services” or “Additional Maintenance Services”) at an additional charge. All charges for Additional Maintenance and Support Services shall be at a rate of \$175 an hour. Any Additional Maintenance and Support Services requested by COUNTY and determined by CONTRACTOR to be billable by CONTRACTOR must be identified as a chargeable service prior to the service being performed and must be approved in writing in advance by COUNTY’s Project Coordinator. Additional Maintenance Services include, but are not limited to, the following:

1) **ADDITIONAL TRAINING:** CONTRACTOR shall provide training through the First Production Use as specified in this Agreement. Additional training at a COUNTY facility within the County of Tulare or at another location approved by CONTRACTOR is available upon request by COUNTY at an additional charge under the terms of a Subsequent Statement of Work. Requests for additional training shall be requested in writing in advance by COUNTY’s Project Coordinator.

2) **UNAUTHORIZED ACCESS CORRECTIONS:** Unauthorized Access Corrections include any corrective actions accomplished by CONTRACTOR on-site or via VPN which are necessary due to unauthorized access to source code or unauthorized access to data by COUNTY. Unauthorized access to the data is defined as any COUNTY editing of data through other than normal system usage as defined in Application Documentation. “Unauthorized Access to Source Code” is defined as any COUNTY access whatsoever to Application source code.

3) **CUSTOMER SITE VISITS:** Site visits to COUNTY sites, as may be requested in writing by COUNTY and that are within the scope of the project services, are available for reasons such as, but not limited to, (1) additional Application training on hardware or software usage; (2) resolution of Application difficulties not resulting from actions by, or otherwise the responsibility of CONTRACTOR (as determined by mutual agreement between CONTRACTOR and COUNTY); and (3) installation of Software Releases. Site visits outside of the scope of project services shall be reviewed by the CONTRACTOR and must be requested in writing in advance by COUNTY’s Project Coordinator.

4) **CUSTOM PROGRAMMING:** Requests for supplemental programming or customi-

zation of Application features not covered under this Agreement are available to COUNTY. Such requests shall be reviewed by CONTRACTOR and must be requested in writing in advance by the COUNTY's Project Coordinator.

E) CONTRACTOR PROJECT COORDINATOR:

Upon execution of this Agreement, CONTRACTOR shall appoint a Project Coordinator who shall act as the primary contact person to interface with COUNTY for implementation, maintenance and support of Application Software.

F) APPLICATION UPDATES AND NEW PRODUCTS:

1) APPLICATION UPDATES: From time to time CONTRACTOR shall develop and provide Application Updates to COUNTY for the COUNTY'S licensed Application Software. Application Updates shall be subject to the terms and conditions of this Agreement and shall be deemed licensed Application Software hereunder and shall be made available to COUNTY at no additional charge to COUNTY. Application Updates shall be made available to COUNTY at the reasonable discretion of CONTRACTOR.

2) NEW PRODUCTS: CONTRACTOR may from time to time release new software with capabilities substantially different from or greater than the Application Software ("New Products") and which therefore do not constitute Application Updates. These New Products shall be made available to COUNTY at a cost not to exceed CONTRACTOR's then standard rates for customers similarly situated.

G) OPERATING SYSTEM UPDATES:

The Application must run on a client operating system that is currently supported by the operating system vendor. The COUNTY shall apply patches to both the client operating system and security subsystems on COUNTY computers as releases are available from operating system vendors.

In order to support a secure environment, the Application must run on the latest supported release of Internet Explorer, Edge and Chrome, as well as any required third party software, such as JAVA, Flash, etc. If the Application is running on the most recent previous version of Internet Explorer, Edge, Chrome, or any required third party software, CONTRACTOR will provide Support only for Critical errors. COUNTY shall actively run anti-virus management on all COUNTY computers. The Application is expected to perform adequately while anti-virus management is active.

In the event COUNTY notifies CONTRACTOR of the release of a critical security patch, CONTRACTOR shall have 30 days to ensure the Application can perform in the updated environment. The Application is expected to perform in this environment. CONTRACTOR is expected to keep their software current in order to operate in this environment. These patches include critical operating system updates and security patches.

H) OTHER:

Unless otherwise specified, for third party software, CONTRACTOR shall provide standard documentation in electronic form (via the Internet or File Transfer Protocol (FTP)).

IV. OBLIGATIONS OF THE COUNTY.

A) COUNTY CONTRACT ADMINISTRATOR AND PROJECT COORDINATOR:

COUNTY appoints its General Services Agency Director or his or her designee, as COUNTY's Contract Administrator with full authority to deal with CONTRACTOR in all matters concerning this Agreement. Upon execution of this Agreement, COUNTY shall designate one or more individuals who shall function as Project Coordinator(s) with responsibility for day-to-day management of the project for implementation of eProsecutor and any deliverables provided by CONTRACTOR under this Agreement. COUNTY shall notify CONTRACTOR in writing of such individual or individuals.

B) SAFEGUARDING APPLICATION SOFTWARE:

COUNTY shall follow its reasonable practices to safeguard Application Software delivered to COUNTY by CONTRACTOR.

C) ACCEPTANCE TESTING AND FIRST PRODUCTION USE:

Prior to the date of First Production Use, COUNTY shall determine that Application Acceptance has occurred in accordance with the definition of Application Acceptance. COUNTY shall notify CONTRACTOR of when First Production Use shall occur at least two weeks prior to such date.

D) ACCEPTANCE TESTING PROCESS:

Following delivery and installation of the Application, CONTRACTOR shall test eProsecutor along with COUNTY personnel.

E) FACILITIES AND PREPARATION:

COUNTY shall at its own expense provide all necessary labor and materials for site preparation, electrical services, and cabling required for installation of the Application. COUNTY shall receive the Application Software and shall follow instructions provided by CONTRACTOR to load it on COUNTY's System Hardware to prepare the Application for processing. Should the COUNTY require assistance from the CONTRACTOR, the CONTRACTOR shall provide any and all assistance to install the Application at no cost to the COUNTY.

F) SYSTEM HARDWARE AND SYSTEM SOFTWARE:

COUNTY shall at its own expense provide and properly maintain and update on an on-going basis all necessary COUNTY System Software and COUNTY System Hardware required to operate eProsecutor. Said COUNTY System Software and COUNTY System Hardware shall meet or exceed CONTRACTOR's recommendations.

As part of COUNTY's responsibility for computer infrastructure, COUNTY is responsible for ensuring that data is secure and protected at all times. CONTRACTOR is not responsible for and cannot be held liable for inadvertent data disclosure or data theft from COUNTY facilities, unless such data breach was directly caused by CONTRACTOR'S negligence or willful misconduct.

G) OTHER COUNTY OBLIGATIONS:

1) Technical assistance from COUNTY IT staff shall be provided during the performance of the installation of the Application Software.

2) COUNTY shall provide:

a) Network connectivity and troubleshooting assistance.

b) Ability to monitor network traffic and isolate bottlenecks.

c) Technical assistance concerning the integration with existing COUNTY systems (if applicable).

d) Expertise to handle issues with Computers, printers, and cabling before, during, and after rollout.

H) PAYMENT OBLIGATIONS:

COUNTY shall pay CONTRACTOR in accordance with Section VII.

V. TERM.

The term of this Agreement shall commence on the Effective Date and shall continue until terminated in accordance with the terms of Section VI ("Termination").

VI. TERMINATION.

A) NON-ALLOCATION OF FUNDS:

The terms of this Agreement, and the services to be provided thereunder, are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified or this Agreement terminated at any time by COUNTY giving CONTRACTOR thirty (30) days advance written notice. Pursuant to this Section VI – A, COUNTY shall promptly remit payment for all deliverables delivered and services rendered up to and as of the date of such termination.

B) BREACH OF CONTRACT:

The COUNTY may immediately suspend or terminate this Agreement in whole or in part, where in the determination of the COUNTY there is:

1) A material failure to comply with any term of this Agreement, which failure continues for a period of thirty (30) days after written notice thereof by COUNTY to CONTRACTOR; or

2) A report required to be submitted to COUNTY by CONTRACTOR is substantially incorrect or incomplete and CONTRACTOR fails to correct the report within thirty (30) days after written notice of the specific incorrect or incomplete items by COUNTY to CONTRACTOR.

3) Material misrepresentation, either by CONTRACTOR or anyone acting on CONTRACTOR'S behalf, as to any matter related in any way to COUNTY'S retention of CONTRACTOR, or

4) Other misconduct or circumstances that, in the sole discretion of COUNTY, either impairs the ability of CONTRACTOR to competently provide the services under this Agreement, or exposes COUNTY to an unreasonable risk of liability.

COUNTY will pay to CONTRACTOR the compensation earned for work satisfactorily performed and not previously paid for to the date of termination. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement. COUNTY will not pay lost anticipated profits or other economic loss, nor will COUNTY pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default.

CONTRACTOR may, upon thirty (30) days prior written notice to COUNTY, terminate this Agreement if COUNTY fails to comply with any material term or condition of this Agreement unless COUNTY cures such failure within such thirty (30) day period, or other such timeframe as may be mutually agreed upon in writing by the Parties.

C) WITHOUT CAUSE:

Under circumstances other than those set forth above, this Agreement may be terminated by COUNTY upon the giving of thirty (30) days advance written notice of an intention to terminate to CONTRACTOR. Upon termination by COUNTY under this Section VI.C, COUNTY agrees to pay CONTRACTOR in full for all deliverables delivered and services rendered up to and as of the date of such termination. COUNTY will not pay lost anticipated profits or other economic loss. The payment of any compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement.

In the event this Agreement is terminated by COUNTY, any prorated Annual License and Maintenance Fees previously paid by COUNTY to CONTRACTOR for the current year beyond the termination date shall be returned to COUNTY within 45 days of the date of termination.

VII. COMPENSATION / INVOICING.

COUNTY agrees to pay CONTRACTOR and CONTRACTOR agrees to receive compensation as follows:

A) ANNUAL LICENSE AND MAINTENANCE FEES:

1) DISTRICT ATTORNEY USERS: Annual License and Maintenance Fees are to be determined by the number of Users described in subsection (a) of the definition of User ("District Attorney Users"), which shall be determined for purposes of calculating the Annual License and Maintenance Fees as of the First Production Use date and each anniversary of that date during the term of this Agreement. COUNTY may increase the number of District Attorney Users at any time upon written notice to CONTRACTOR, which shall be promptly invoiced by CONTRACTOR and followed by payment by the COUNTY reflecting the increased Annual License and Maintenance Fees pro-rated for any partial year. COUNTY may reduce the number of District Attorney Users, but such reduction shall only become effective as of the First Production Use date (if such date has not occurred yet) or as of the next anniversary of the First Production Use date, provided

that COUNTY has provided CONTRACTOR written notice of such reduction sixty (60) days prior to the applicable effective date of such reduction.

2) **UNLIMITED USE OF ePROSECUTOR PUBLIC:** CONTRACTOR shall provide access to eProsecutor Public to Users who are members of the public, criminal defense attorneys and other government agencies. As compensation for this service, for each District Attorney User, an additional thirty percent (30%) shall be deemed to be added to the number of Annual District Attorney Users. The number of District Attorney Users plus these additional Users shall constitute the total number of Users (“Total Users”). The number of additional Users shall change concurrently with any change in the number of District Attorney Users in accordance with Section VII.A.1.

3) **ANNUAL FEE STRUCTURE:** The annual fee for the first fifty (50) Total Users shall be \$1,000 per user. The annual fee for the next fifty (50) Total Users shall be \$800 per user. The annual fee for the next one-hundred (100) Total Users shall be \$700 per user. Any additional Total Users over two-hundred (200), but less than 500, shall be charged \$500 per user. This Annual Fee Structure is represented in the table below:

User Group	Users in Group	Per User	Total
1-50	50	\$1,000	\$ 50,000
51-100	50	\$ 800	\$ 40,000
101-200	100	\$ 700	\$ 70,000
201-500	300	\$ 500	\$150,000
501-800	300	\$ 500	\$150,000

4) **CURRENT FEE ESTIMATE:** It is estimated that there shall be two-hundred and eight (208) Annual District Attorney Users at the time of First Production Use. With the addition of the thirty percent (30%) for unlimited use of eProsecutor Public, there shall be an estimated two-hundred and seventy-one (271) Total Users. It is estimated that the initial Annual License and Maintenance Fee shall be \$196,000. It is understood between CONTRACTOR and COUNTY that the number of Total Users may change prior to First Production Use and that the Annual License and Maintenance Fee may be recalculated based on the number of Total Users as of the First Production Use date.

B) ONE-TIME FEES FOR INSTALLATION, TRAINING, AND PROJECT MANAGEMENT.

1) Professional Services which include unlimited implementation training:

a)	Implementation Services, Including Expenses	\$160,000
b)	Annual License and Maintenance fees	196,000
c)	Data Conversion and Interfaces Cost Breakdown:	
	<u>Data Conversion:</u>	
	Migrate all Damion data and all associated documents to eProsecutor system.	90,000

	<u>Interfaces:</u>	
	Existing Interfaces:	
	Electronic filing with eCourt and Amended complaint filing with eCourt. eCourt event/results interface to auto populate events/results in eProsecutor. Juvenile Probation to DA filing interface. Court's electronic minute orders to DA interface. Juvenile DA electronic filing of Petitions and Amended Petitions with the Court	30,000
	Total Cost For Interfaces:	30,000
	Total Cost for Data Conversion and Interfaces:	120,000
	Total one-time fees	280,000
	Annual License and Maintenance Fees	196,000

C) NOT TO EXCEED AMOUNT FOR ONE-TIME FEES:

It is understood and agreed that the dollar figures listed hereinabove for implementation services, data conversion and interface one-time fees include applicable taxes which may be subject to change during the period for scheduled payments. In no event shall one-time fees for implementation services, data conversion and interfaces performed under this Agreement exceed **\$280,000.00**. This fee shall include any and all applicable taxes. The COUNTY hereby verifies that it is exempt from Federal excise taxes and is not subject to any California or other State or Local sales or use taxes. If COUNTY is not exempt from any such taxes or otherwise becomes subject to such taxes at any time in the future, COUNTY shall be responsible for the payment of such taxes.

D) PAYMENT SCHEDULE:

1) ANNUAL LICENSE AND MAINTENANCE FEE: Annual License and Maintenance Fees listed in Section VII.A shall be paid following Application Acceptance and prior to First Production Use within 45 days after receiving an invoice, and thereafter, prior to each one year anniversary of First Production Use during the term of this Agreement. Notwithstanding the foregoing, if this Agreement is set to expire or terminate during the year immediately following First Production Use or any applicable anniversary thereof, and any required notice of termination has been given prior to First Production Use or prior to any such applicable anniversary thereof pursuant to Section VI above, COUNTY shall not be obligated to pay the full Annual License and Maintenance Fee for that year. Instead, COUNTY shall only pay CONTRACTOR a prorated Annual License and Maintenance Fee, prorated through the specified date of termination or expiration.

2) IMPLEMENTATION SERVICE FEES, INCLUDING EXPENSES BY CONTRACTOR: Fees for Implementation Services listed in Section VII.B above shall be paid following Application Acceptance and prior to First Production Use. There shall be no implementation fees other than those outlined in Section VII.B of this Agreement. There shall be no progress payments for the Implementation Services.

3) DATA CONVERSION FEES: Data Conversion Fees listed in Section VII.B above shall be paid in two separate fifty percent (50%) payments. Upon written notice by the COUNTY's Project

Coordinator to proceed with the data conversion as provided in the Statement of Work, COUNTY shall pay CONTRACTOR for fifty percent (50%) of the Data Conversion Fee. Following Application Acceptance and prior to First Production Use, COUNTY shall pay CONTRACTOR the remaining fifty percent (50%) of the Data Conversion Fee.

4) **INTERFACE COSTS:** CONTRACTOR agrees to deliver to COUNTY all interfaces prior to the First Production Use date. Any requests by COUNTY to CONTRACTOR for additional interface services with respect to said Support, shall be subject to a Subsequent Statement of Work. Interface Support for any interfaces not created by CONTRACTOR shall be the responsibility of COUNTY. CONTRACTOR shall cooperate with COUNTY to provide any documentation or other information reasonably requested by COUNTY in order for COUNTY to provide said Support.

E) FEE CHANGES

At each anniversary of the First Production Use date, the Annual License and Maintenance Fees including additional license/service fees, shall automatically increase by the year-over-year percentage increase in the Consumer Price Index, All Urban Consumers (CPI-U) for the West Region calculated for the month prior to the month in which notice is given hereunder, not to exceed four percent (4%).

CONTRACTOR warrants to COUNTY that for the term of this Agreement, the Annual License and Maintenance Fees and other charges for the Licenses and services provided under this Agreement, taken as a whole, shall be no greater than the fees it charges or would charge for substantially identical services and products to other customers in the United States of a comparable nature for products supplied under similar terms and conditions and in similar circumstances to those reflected in this Agreement, taking into account all the circumstances of this Agreement including the product, support, and the term of the Agreement. If COUNTY establishes a violation of the foregoing warranty, COUNTY shall be entitled to recover from CONTRACTOR an amount equal to any difference between the amounts charged under this Agreement, and the amounts found to have been charged to other comparable customers for substantially identical services and products, etc., from the time they were so charged to the others, and shall have no other remedy.

F) ADDITIONAL SERVICE FEES:

Any fees for optional, additional services, including Additional Maintenance Services, and software ("Additional Service Fees") shall be provided pursuant to the terms of a Subsequent Statement of Work. Additional Service Fees shall only be paid to CONTRACTOR if any such services set forth hereinabove are performed by CONTRACTOR upon COUNTY's written request. Such optional additional services may be provided at any time during the term of this Agreement.

G) INVOICING:

For each payment obligation described in this Agreement (including but not limited to Section VII), CONTRACTOR shall submit invoices (which must reference the provided contract number) via mail to the Tulare County District Attorney, 221 S. Mooney Blvd., Rm. 224, Visalia, CA 93291. COUNTY shall pay CONTRACTOR within forty-five (45) days of receipt of an approved invoice, by mail addressed to CONTRACTOR's remittance address at 915 E. 1st Street, Los Angeles, CA 90012.

VIII. INDEPENDENT CONTRACTOR.

In performance of the work, duties and obligations assumed by CONTRACTOR under this Agreement, it is mutually understood and agreed that CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents, and employees, shall at all times be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the COUNTY. Furthermore, COUNTY shall have no right to control or supervise or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions thereof.

CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

Because of its status as an independent contractor, CONTRACTOR shall have absolutely no right to employment rights and benefits available to COUNTY employees. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR'S employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

IX. CONFIDENTIALITY.

A Party receiving "Information" (as defined hereinbelow) of the other recognizes that such Information is confidential and proprietary and agrees not to disclose such Information to any third party without the prior written consent of the other Party, which may be granted or withheld in such Party's sole and absolute discretion. The Party receiving Information shall not use such Information for a purpose inconsistent with the terms of this Agreement. "Information" means the Application, Documentation and all information and intellectual property related thereto (including, but not limited to all databases provided to COUNTY by CONTRACTOR whether created by CONTRACTOR or its third party licensors such as, without limitation, the mapping product databases) as well as information related to the business of CONTRACTOR or COUNTY. Information shall not include: (i) information publicly known prior to disclosure; (ii) information coming into the lawful possession of the recipient by a third party without any confidentiality obligation; and (iii) information required to be disclosed pursuant to law or any regulatory action or court order, provided adequate prior written notice of any request to disclose is given to the Party whose information is to be disclosed. Each Party shall exercise at least the same degree of care to safeguard the confidentiality of the other's Information as it does to safeguard its own proprietary confidential information, but not less than a reasonable degree of care. In the event a Party breaches any of its obligations under this Section IX, the breaching party shall indemnify, defend and hold harmless the non-breaching party from and against any and all losses, liabilities, damages, causes of action, claims, demands, and expenses (including reasonable legal fees and expenses) incurred by the non-breaching party arising out of such breach. In addition, the non-breaching party shall be entitled to seek injunctive relief against the breaching party.

X. MODIFICATION.

Any matters of this Agreement may be modified from time to time by the written consent of all the Parties without, in any way, affecting the remainder.

XI. NON-ASSIGNMENT.

Neither party shall assign, transfer or sub-contract this Agreement nor their rights or duties under this Agreement without the prior written consent of the other party; provided that CONTRACTOR is permitted to engage consultants who act as regular staff enhancements to CONTRACTOR.

XII. HOLD HARMLESS & LIMITATION OF LIABILITY.

CONTRACTOR agrees to indemnify, save, hold harmless, and at COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to COUNTY from the negligence or willful misconduct of CONTRACTOR, its officers, agents, or employees in their performance of, or failure to perform, obligations under this Agreement, and from any and all costs and expenses including attorney's fees and court costs, damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by negligence or willful misconduct of CONTRACTOR, its officers, agents, or employees in their performance of obligations under this Agreement.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOSS OF ANTICIPATED PROFITS IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT. FURTHERMORE, COUNTY'S TOTAL LIABILITY WITH RESPECT TO CLAIMS ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT SHALL NOT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT OF FEES PAYABLE HEREUNDER TO CONTRACTOR. IN NO EVENT SHALL CONTRACTOR'S TOTAL LIABILITY WITH RESPECT TO CLAIMS ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT OF FEES PAID HEREUNDER TO CONTRACTOR FOR THE FIRST FIVE-YEARS OF THE LICENSE TERM.

XIII. INSURANCE.

The following outlines the minimum scope, specifications, and limits of insurance required under this Agreement. Additional insured endorsements required as outlined cannot be used to reduce limits available to COUNTY as an additional insured from CONTRACTOR'S full policy limits. Insurance policies cannot be used to limit liability or to limit the indemnification provisions and requirements of this Agreement or act in any way to reduce the policy coverage and limits available from the insurer(s). If CONTRACTOR fails to maintain or renew coverage, or to provide evidence of renewal, then COUNTY may consider that failure a material breach of this Agreement. COUNTY may also withhold any payment otherwise due to CONTRACTOR for failure to provide evidence of renewal until CONTRACTOR provides such evidence.

Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the following insurance policies throughout the term of the Agreement:

A) Minimum Scope & Limits of Insurance

1) Coverage at least as broad as Commercial General Liability, insurance Services Office Commercial General Liability coverage occurrence form GC 00 01, with limits no less than \$1,000,000 per occurrence including products and completed operations, property damage, bodily injury and personal & advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2) Insurance Services Office Form Number CA 0001 1013 covering Automobile Liability, (any non-owned or hired auto) of \$1,000,000 per occurrence. If an annual aggregate applies it must be no less than \$2,000,000.

3) Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

4) Technology Professional Liability (Errors and Omissions) Insurance appropriate to the CONSULTANT's profession, with limits no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, credit monitoring expenses. The policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the COUNTY in the care of, custody, or control of the CONTRACTOR. If not covered under the CONTRACTOR'S liability policy, such "property" coverage may be endorsed onto the CONTRACTOR's Cyber Liability Policy as covered property as follows:

"Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of COUNTY that will be in the care, custody, or control of CONTRACTOR."

B) Specific Provisions of the Certificate

1) CONTRACTOR must submit endorsements to the General Liability and Auto Liability reflecting the following provisions:

a) The COUNTY, its officers, agents, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired or borrowed by the CONTRACTOR.

b) For any claims related to this project, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, agents, officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, agents, of-

officials, employees or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

c) Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice (or ten (10) days prior written notice for non-payment of premium and non-reporting of payroll) has been provided to the County.

2) The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the CONTRACTOR, its employees, agents and subcontractors.

a) Waiver of Subrogation. The workers' compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the contractor, its employees, agents and subcontractors. CONTRACTOR waives all rights against the County and its officers, agents, official, employees and volunteers for recovery of damages to the extent these damages are covered by the workers compensation and employers liability.

C) Deductibles and Self-Insured Retentions

The COUNTY Risk Manager must approve any deductible or self-insured retention that exceeds (1) \$250,000 for the Technology Professional Liability (Errors and Omissions) Insurance Policy, or (2) \$100,000 for any of the other insurance policies.

D) Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A:VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the County Risk Manager.

E) Verification of Coverage

Prior to approval of this Agreement by the COUNTY, the CONTRACTOR shall file with the Clerk of the Board of Supervisors, certificates of insurance with original endorsements effecting coverage and a copy of the declarations page from the policy in effect in a form acceptable to the COUNTY. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The COUNTY reserves the right to require certified copies of all required insurance policies at any time.

F) If any of the required insurance is written on a claims made form, the retroactive date must be before the date of the contract or the beginning of the contract work and must be maintained and evidence of insurance must be provided, at the COUNTY'S request on an annual basis, for at least three (3) years after completion of the contract work.

XIV. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.

A) The Parties to this Agreement shall be in strict conformance with all applicable Federal and State of California laws and regulations, including but not limited to Sections 5328, 10850, and 14100.2 *et seq.* of the Welfare and Institutions Code, Sections 2.1 and 431.300 *et seq.* of Title

42, Code of Federal Regulations (CFR), Section 56 *et seq.* of the California Civil Code, Sections 11977 and 11812 of Title 22 of the California Code of Regulations, and the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to Section 1320 D *et seq.* of Title 42, United States Code (USC) and its implementing regulations, including, but not limited to Title 45, CFR, Sections 142, 160, 162, and 164, The Health Information Technology for Economic and Clinical Health Act (HITECH) regarding the confidentiality and security of patient information, and the Genetic Information Nondiscrimination Act (GINA) of 2008 regarding the confidentiality of genetic information.

Except as otherwise provided in this Agreement, CONTRACTOR, as a Business Associate of COUNTY, may use or disclose Protected Health Information (PHI) to perform functions, activities or services for or on behalf of COUNTY, as specified in this Agreement, provided that such use or disclosure shall not violate HIPAA, USC 1320d *et seq.* The uses and disclosures of PHI may not be more expansive than those applicable to COUNTY, as the "Covered Entity" under the HIPAA Privacy Rule (45 CFR 164.500 *et seq.*), except as authorized for management, administrative or legal responsibilities of the Business Associate.

B) CONTRACTOR, including its subcontractors and employees, shall protect, from unauthorized access, use, or disclosure the names and other identifying information, including genetic information, concerning persons receiving services pursuant to this Agreement, except where permitted in order to carry out data aggregation purposes for health care operations [45 CFR Sections 164.504 (e)(2)(i), 164.504 (3)(2)(ii)(A), and 164.504 (e)(4)(i)] This pertains to any and all persons receiving services pursuant to a COUNTY-funded program. This requirement applies to electronic PHI. CONTRACTOR shall not use such identifying information or genetic information for any purpose other than carrying out CONTRACTOR's obligations under this Agreement.

C) CONTRACTOR, including its subcontractors and employees, shall not disclose any such identifying information or genetic information to any person or entity, except as otherwise specifically permitted by this Agreement, authorized by Subpart E of 45 CFR Part 164 or other law, required by the Secretary of the US Department of Health & Human Services ("HHS Secretary"), or authorized by the client/patient in writing. In using or disclosing PHI that is permitted by this Agreement or authorized by law, CONTRACTOR shall make reasonable efforts to limit PHI to the minimum necessary to accomplish intended purpose of use, disclosure or request.

D) For purposes of the above sections, identifying information shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print, or photograph.

E) For purposes of the above sections, genetic information shall include genetic tests of family members of an individual or individual, manifestation of disease or disorder of family members of an individual, or any request for or receipt of, genetic services by individual or family members. Family member means a dependent or any person who is first, second, third, or fourth degree relative.

F) At COUNTY's expense, CONTRACTOR shall provide access, at the reasonable request of COUNTY, and in the time and manner reasonably designated by COUNTY, but in any event during normal business hours, to PHI in a designated record set (as defined in 45 CFR Section 164.501), to an individual or to COUNTY in order to meet the requirements of 45 CFR Section 164.524 regarding access by individuals to their PHI. With respect to individual requests, access shall be provided at COUNTY's expense within thirty (30) days from request. Access may be extended if CONTRACTOR cannot provide access and provides individuals with the reasons for

the delay and the date when access may be granted. PHI shall be provided in the form and format requested by the individual or COUNTY.

CONTRACTOR shall at COUNTY's expense make any amendment(s) to PHI in a designated record set at the request of COUNTY or individual, and in the time and manner designated by COUNTY in accordance with 45 CFR Section 164.526.

CONTRACTOR shall provide to COUNTY or to an individual, in a time and manner designated by COUNTY and at COUNTY's expense, information collected in accordance with 45 CFR Section 164.528, to permit COUNTY to respond to a request by the individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.

G) CONTRACTOR shall report to COUNTY, in writing, any knowledge or reasonable belief that there has been unauthorized access, viewing, use, disclosure, security incident, or breach of unsecured PHI not permitted by this Agreement of which it becomes aware, immediately and without unreasonable delay and in no case later than five (5) business days of discovery. Immediate notification shall be made to COUNTY's Information Security Officer and Privacy Officer and COUNTY's DPH HIPAA Representative at the notice address or telephone number below, within two (2) business days of discovery. The notification shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, used, disclosed, or breached. CONTRACTOR shall take prompt reasonable corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State Laws and regulations. CONTRACTOR shall investigate such breach and is responsible for all notifications required by law and regulation or deemed reasonably necessary by COUNTY and shall provide a written report of the investigation and reporting required to COUNTY's Information Security Officer and Privacy Officer and COUNTY's DPH HIPAA Representative. This written investigation and description of any reporting necessary shall be postmarked within the thirty (30) working days of the discovery of the breach to the addresses below:

County of Tulare Dept. of Public Health	County of Tulare Dept. of Public Health	County of Tulare Information Technology Services
HIPAA Representative Privacy Officer Larry Salgado Tulare County Information & Technology Dept. 221 S. Mooney Blvd. Visalia, CA 93291 (need addresses)	Information Security Officer Bill Harrison Tulare County Information & Technology Dept. 221 S. Mooney Blvd. Visalia, CA 93291	Peg Yeates, Director Tulare County Information & Technology Dept. 221 S. Mooney Blvd. Visalia, CA 93291

H) CONTRACTOR shall make its internal practices, books, and records relating to the use and disclosure of PHI received from COUNTY, or created or received by the CONTRACTOR on behalf of COUNTY, in compliance with HIPAA's Privacy Rule to the extent applicable, including, but not limited to, the requirements set forth in Title 45, CFR, Sections 160 and 164. CONTRACTOR shall make its internal practices, books, and records relating to the use and disclosure of PHI received from COUNTY, or created or received by the CONTRACTOR on behalf of COUNTY, available to the HHS Secretary upon demand to the extent required by law.

CONTRACTOR shall reasonably cooperate with the compliance and investigation reviews

conducted by the HHS Secretary. PHI access to the HHS Secretary must be provided during the CONTRACTOR's normal business hours, however, upon exigent circumstances access at any time must be granted, in all cases to the extent required by law. Upon the HHS Secretary's compliance or investigation review, if PHI is unavailable to CONTRACTOR and in possession of a Subcontractor, it must certify efforts to obtain the information to the HHS Secretary to the extent required by law.

I) SAFEGUARDS:

CONTRACTOR shall implement administrative, physical, and technical safeguards to the extent required by the HIPAA Security Rule, Subpart C of 45 CFR 164, that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI, including electronic PHI, that it creates, receives, maintains or transmits on behalf of COUNTY and to prevent unauthorized access, viewing, use, disclosure, or breach of PHI other than as provided for by this Agreement. CONTRACTOR shall conduct an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity and availability of electronic PHI to the extent required by applicable law. CONTRACTOR shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of CONTRACTOR's operations and the nature and scope of its activities to the extent required by applicable law. Upon COUNTY's reasonable request, CONTRACTOR shall provide COUNTY with information concerning such safeguards.

CONTRACTOR shall not transmit confidential, personal, or sensitive data solely received from or created or received by CONTRACTOR on behalf of COUNTY via e-mail or other internet transport protocol unless the data is encrypted by a solution that has been validated by the National Institute of Standards and Technology (NIST) as conforming to the Advanced Encryption Standard (AES) Algorithm. CONTRACTOR must apply appropriate sanctions against its employees who fail to comply with these safeguards to the extent required by applicable law. CONTRACTOR must adopt procedures for terminating access to PHI when employment of employee ends to the extent required by applicable law.

J) MITIGATION OF HARMFUL EFFECTS:

CONTRACTOR shall mitigate, to the extent reasonably practicable, any harmful effect that is suspected or known to CONTRACTOR of an unauthorized access, viewing, use, disclosure, or breach of PHI by CONTRACTOR or its subcontractors in violation of the requirements of these provisions. CONTRACTOR must document suspected or known harmful effects and the outcome.

K) CONTRACTOR'S SUBCONTRACTORS:

CONTRACTOR shall ensure that any of its contractors, including subcontractors, if applicable, to whom CONTRACTOR provides PHI received from or created or received by CONTRACTOR on behalf of COUNTY, agree to the same restrictions, safeguards, and conditions that apply to CONTRACTOR with respect to such PHI and to incorporate, when applicable, the relevant provisions of these provisions into each subcontract or sub-award to such agents or subcontractors.

L) EMPLOYEE TRAINING AND DISCIPLINE:

CONTRACTOR shall train and use reasonable measures to ensure compliance with the requirements of these provisions by employees who materially assist in the performance of functions or activities on behalf of COUNTY under this Agreement and use or disclose PHI and discipline such employees who intentionally violate in material respects any provisions of these provisions, including termination of employment.

M) TERMINATION FOR CAUSE:

Upon COUNTY's knowledge of a material breach of these provisions of section XIV by CONTRACTOR, COUNTY shall either:

1) Provide a reasonable opportunity no shorter than thirty (30) days for CONTRACTOR to cure the breach or end the violation and terminate this Agreement if CONTRACTOR does not cure the breach or end the violation within the time specified by COUNTY; or

2) Immediately terminate this Agreement if CONTRACTOR has breached a material term of these provisions and cure is not possible.

3) If neither cure nor termination is feasible, the COUNTY's Privacy Officer shall report the violation to the HHS Secretary to the extent required by law.

N) JUDICIAL OR ADMINISTRATIVE PROCEEDINGS:

COUNTY may terminate this Agreement in accordance with the terms and conditions of this Agreement as written hereinabove, if: (1) CONTRACTOR is found guilty in a criminal proceeding for a violation of the HIPAA Privacy or Security Laws or the HITECH Act; or (2) there is a judicial finding or stipulation that the CONTRACTOR has violated a privacy or security standard or requirement of the HITECH Act, HIPAA or other security or privacy laws in an administrative or civil proceeding in which the CONTRACTOR is a party.

O) EFFECT OF TERMINATION:

Upon termination or expiration of this Agreement for any reason, CONTRACTOR shall return or destroy at COUNTY's reasonable expense all PHI received from COUNTY (or created or received by CONTRACTOR on behalf of COUNTY) that CONTRACTOR still maintains in any form and that is easily divisible from other information, and shall retain no copies of such PHI. If return or destruction of PHI is not feasible, it shall continue to extend the protections of these provisions to such information at COUNTY's reasonable expense, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents, if applicable, of CONTRACTOR. If CONTRACTOR destroys the PHI data, a certification of date and time of destruction shall be provided to the COUNTY by CONTRACTOR.

P) DISCLAIMER:

COUNTY makes no warranty or representation that compliance by CONTRACTOR with these provisions, the HITECH Act, HIPAA or the HIPAA regulations will be adequate or satisfactory for CONTRACTOR's own purposes or that any information in CONTRACTOR's possession or control, or transmitted or received by CONTRACTOR, is or will be secure from unauthorized

access, viewing, use, disclosure, or breach. CONTRACTOR is solely responsible for all decisions made by CONTRACTOR regarding the safeguarding of PHI.

Q) AMENDMENT:

The Parties acknowledge that Federal and State laws relating to electronic data security and privacy are rapidly evolving and that amendment of these provisions may be required to provide for procedures to ensure compliance with such developments. The Parties specifically agree to take such action as is necessary to amend this agreement in order to implement the standards and requirements of HIPAA, the HIPAA regulations, the HITECH Act and other applicable laws relating to the security or privacy of PHI. COUNTY may terminate this Agreement upon thirty (30) days written notice in the event that CONTRACTOR does not enter into an amendment providing assurances regarding the safeguarding of PHI that COUNTY in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA, the HIPAA regulations and the HITECH Act.

R) .NO THIRD PARTY BENEFICIARIES:

Nothing express or implied in the terms and conditions of these provisions is intended to confer, nor shall anything herein confer, upon any person other than COUNTY or CONTRACTOR and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

S) INTERPRETATION:

The terms and conditions in these provisions shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable State laws. The Parties agree that any ambiguity in the terms and conditions of these provisions shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA regulations.

T) REGULATORY REFERENCES:

A reference in the terms and conditions of these provisions to a section in the HIPAA regulations means the section as in effect or as amended.

U) SURVIVAL:

The respective rights and obligations of CONTRACTOR as stated in this Section shall survive the termination or expiration of this Agreement.

V) NO WAIVER OF OBLIGATIONS:

No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation on any other occasion.

XV. AUDITS AND INSPECTIONS.

CONTRACTOR shall at any time during CONTRACTOR'S normal business hours, and upon prior written notice, as often as the COUNTY may deem necessary, make available to the COUNTY for examination all of its records and data with respect to the matters covered by this

Agreement. CONTRACTOR shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement for a period of five (5) years from the date of final payment under this Agreement. Any such examinations or audits shall be at the COUNTY'S expense.

If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the Auditor General for a period of three (3) years after final payment under contract (Government Code Section 8546.7).

XVI. NOTICES.

A) AUTHORITY TO GIVE AND RECEIVE NOTICES:

The persons and their addresses having authority to give and receive notices under this Agreement include the following:

COUNTY OF TULARE

Office of the District Attorney
 Attn: Chief Deputy District Attorney
 221 S. Mooney Blvd., Rm. 224
 Visalia, CA 93291

CONTRACTOR

Journal Technologies, Inc.
 Attn: Chief Operating Officer
 915 E. 1st St.
 Los Angeles, CA 90012

Any and all notices between the COUNTY and the CONTRACTOR provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to one of the Parties, or in lieu of such personal services, when deposited in the United States Mail, postage prepaid, addressed to such Party or by electronic mail sent to and confirmed by CONTRACTOR at CONTRACTOR's email address.

B) PRIMARY ESCALATION CONTACT INFORMATION

The persons and their contact information that the COUNTY or CONTRACTOR can use to escalate problems or situations:

COUNTY	CONTRACTOR
Contact # 1:	Contact # 1:
District Attorney's Office System's and Procedures Supervisor 221 S. Mooney Blvd., Rm. 224 Visalia, CA 93291	Jerry Salzman, <i>President</i> Journal Technologies, Inc. 915 E. 1st St Los Angeles, CA 90012
Office Phone: (559) 636-5458	Office Phone: (213) 229-5434
	Cell Phone: (323) 206-2800
<u>COUNTY</u>	
Contact # 2:	Email maryjoe_rodriguez@dailyjournal.com
Information Technology Manager	

XVII. GOVERNING LAW; DISPUTE RESOLUTION.

A) Venue for any action arising out of or related to this Agreement shall only be in federal district court in FRESNO County, California, but if subject matter jurisdiction does not lie therein, such venue shall be in the state courts in Tulare County, California. The rights and obligations of the Parties and all interpretation and performance of this Agreement shall be governed in all respects by the laws of the State of California.

B) The Parties shall first attempt to resolve amicably any dispute by meeting with each other, by telephone or in person at a mutually convenient time and location, within thirty (30) days after written notice of a dispute is delivered from one Party to the other. Subsequent meetings may be held upon mutual agreement of the Parties. If the dispute is not resolved within sixty (60) days of the first meeting, the Parties shall submit the dispute to mediation by an organization or company specializing in providing neutral, third party mediators. COUNTY shall be entitled to select either (i) the location of the mediation or (ii) the organization or company, and CONTRACTOR shall select the other. The mediation shall be conducted within sixty (60) days of the date the dispute is submitted to mediation, unless the Parties mutually agree on a later date. Any dispute that is not otherwise resolved by meeting or mediation shall be exclusively resolved in accordance with the first sentence of this Section XVII of this Agreement. All fees and expenses of the mediation (other than each Party's attorneys' fees) shall be shared evenly by the Parties.

XVIII. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement between the CONTRACTOR and COUNTY with respect to the subject matter hereof and supersedes all previous Agreement negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly included in this Agreement. In the event of any inconsistency in interpreting the documents comprising this Agreement, the inconsistency shall be resolved by giving precedence in the following order of priority: (1) the text of this Agreement; (2) CONTRACTOR's Response to COUNTY's SYSTEM REQUIREMENTS.

XIX. SUBMITTING FALSE CLAIMS; MONETARY PENALTIES: Under applicable federal and state law, if CONTRACTOR submits a false claim to COUNTY under this Agreement, then CONTRACTOR will be liable to COUNTY for the statutory penalties set forth in those statutes, including but not limited to statutory fines, treble damages, costs, and attorneys' fees. CONTRACTOR will be deemed to have submitted a false claim to COUNTY if CONTRACTOR:

A) Knowingly presents or causes to be presented to COUNTY a false claim or request for payment or approval;

B) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by COUNTY;

C) Conspires to defraud COUNTY by getting a false claim allowed or paid by COUNTY;

D) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to COUNTY; or

E) Is a beneficiary of an inadvertent submission of a false claim to COUNTY, later discovers the falsity of the claim, and fails to disclose the false claim to COUNTY within a reasonable time after discovery of the false claim.

XX. AUTHORITY: CONTRACTOR represents and warrants to COUNTY that the individual(s) signing this Agreement on its behalf are duly authorized and have legal capacity to sign this Agreement and bind CONTRACTOR to its terms. CONTRACTOR acknowledges that COUNTY has relied upon this representation and warranty in entering into this Agreement.

XXI. COUNTERPARTS. The Parties may sign this Agreement in counterparts, each of which is an original and all of which taken together form one single document.

[THIS SPACE LEFT BLANK INTENTIONALLY; SIGNATURE FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first hereinabove written.

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

Date: August 21, 2018

By J. Steven Martley
Chairman, Board of Supervisors

ATTEST: MICHAEL C. SPATA
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By Mary Ravello
Deputy Clerk



JOURNAL TECHNOLOGIES, INC.

Date: 7/30/18

By Gerald L. Silzman
Print Name Gerald L. Silzman
Title President

Date: 7/30/18

By Gerald L. Silzman
Print Name Gerald L. Silzman
Title Secretary

[Pursuant to Corporations Code section 313, County policy requires that contracts with a Corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a Limited Liability Company be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]

Approved as to Form
County Counsel

By [Signature]
Deputy

Matter # 20171901