

**Agreement With
Telecommunications Engineering Associates
for
Telecommunications Maintenance and Management Services**

This Agreement, made and entered into this ___ day of September 2020, by and between the CITY OF SAN MATEO, a municipal corporation existing under the laws of the State of California ("CITY"), and Daryl D. Jones, Inc. dba Telecommunications Engineering Associates with offices at 1160 Industrial Rd. #15, San Carlos, California, hereinafter referred to as "CONTRACTOR".

R E C I T A L S

A. CITY desires certain public safety telecommunications maintenance and facility management services hereinafter described.

B. CITY desires to engage CONTRACTOR to provide these services by reason of its qualifications and experience for performing such services and CONTRACTOR has offered to provide the required services on the terms and in the manner set forth herein.

NOW, THEREFORE, IT IS AGREED as follows:

SECTION 1 - SCOPE OF SERVICES

The scope of services to be performed by CONTRACTOR under this Agreement is as described in Exhibit A to this Agreement, which is attached and incorporated by reference.

SECTION 2 - DUTIES OF CONTRACTOR

CONTRACTOR shall be responsible for the professional quality, technical accuracy and coordination of all work furnished by CONTRACTOR under this Agreement. CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in its work.

CONTRACTOR represents that it is qualified to furnish the services described under this Agreement.

CONTRACTOR shall be responsible for employing or engaging all persons necessary to perform the services of CONTRACTOR.

SECTION 3 - DUTIES OF CITY

CITY shall provide pertinent information regarding its requirements for the project.

CITY shall examine documents submitted by CONTRACTOR and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of CONTRACTOR'S work.

SECTION 4 - TERM

The services to be performed under this Agreement shall commence on July 1, 2020 and be completed on or about June 30, 2025.

SECTION 5 - PAYMENT

Payment shall be made by CITY only for services rendered and upon submission of a payment request upon completion and CITY approval of the work performed. In consideration for the full performance of the services set forth in Exhibit A, CITY agrees to pay CONSULTANT a fee pursuant to rates stated in Exhibit B, attached and incorporated by reference.

CONTRACTOR fees are based on the itemized list of equipment set forth in Exhibit A.

SECTION 6 - TERMINATION

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY shall have the right to terminate this Agreement or suspend work on the Project for any reason, upon ten (10) days' written notice to CONTRACTOR. CONTRACTOR agrees to cease all work under this Agreement upon receipt of said written notice.

SECTION 7 - OWNERSHIP OF DOCUMENTS

All documents prepared by CONTRACTOR in the performance of this Agreement are and shall be the property of CITY, whether the project for which they are made is executed or not.

SECTION 8 - CONFIDENTIALITY

All reports and documents prepared by CONTRACTOR in connection with the performance of this Agreement are confidential until released by CITY to the public. CONTRACTOR shall not make any such documents or information available to any individual or organization not employed by

CONTRACTOR or CITY without the written consent of CITY before any such release.

SECTION 9 - INTEREST OF CONTRACTOR

CONTRACTOR covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services under this Agreement.

SECTION 10 - CONTRACTOR'S STATUS

It is expressly agreed that in the performance of the services required under this Agreement, CONTRACTOR shall at all times be considered an independent contractor as defined in Labor Code Section 3353, under control of the CITY as to the result of the work but not the means by which the result is accomplished. Nothing herein shall be construed to make CONTRACTOR an agent or employee of CITY while providing services under this Agreement.

SECTION 11 - INDEMNITY

CONTRACTOR agrees to hold harmless and indemnify CITY, its elected and appointed officials, employees, and agents from and against any and all claims, loss, liability, damage, and expense arising out of CONTRACTOR's performance of this Agreement, except for those claims arising out of CITY's sole negligence or willful misconduct. CONTRACTOR agrees to defend City, its elected and appointed officials, employees, and agents against any such claims.

SECTION 12 - INSURANCE

CONTRACTOR shall provide and maintain:

A. Commercial General Liability Insurance, occurrence form, with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

B. Automobile Liability Insurance, occurrence form, with a limit of not less than \$1,000,000 each occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles.

C. Workers Compensation in at least the minimum statutory limits.

D. General Provisions for all insurance. All insurance shall:

1. Include the City of San Mateo, its elected and appointed officers, employees, and volunteers as additional insureds with respect to this Agreement and the performance of services in this Agreement. The coverage shall contain no special limitations on the scope of its protection to the above-designated insureds.

2. Be primary with respect to any insurance or self-insurance programs of City, its officers, employees, and volunteers.
3. Be evidenced, prior to commencement of services, by properly executed policy endorsements in addition to a certificate of insurance.
4. No changes in insurance may be made without the written approval of the City Attorney's Office.

SECTION 13 - NONASSIGNABILITY

Both parties hereto recognize that this Agreement is for the personal services of CONTRACTOR and cannot be transferred, assigned, or subcontracted by CONTRACTOR without the prior written consent of CITY.

SECTION 14 - RELIANCE UPON SKILL OF CONTRACTOR

It is mutually understood and agreed by and between the parties hereto that CONTRACTOR is skilled in the performance of the work agreed to be done under this Agreement and that CITY relies upon the skill of CONTRACTOR to do and perform the work in the most skillful manner, and CONTRACTOR agrees to thus perform the work. The acceptance of CONTRACTOR's work by CITY does not operate as a release of CONTRACTOR from said obligation.

SECTION 15 - WAIVERS

The waiver by either party of any breach or violation of any term, covenant, or condition of this Agreement or of any provisions of any ordinance or law shall not be deemed to be a waiver of such term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, condition, ordinance, or law. The subsequent acceptance by either party of any fee or other money which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, covenant, or condition of this Agreement or of any applicable law or ordinance.

SECTION 16 - COSTS AND ATTORNEY FEES

Attorney fees in an amount not exceeding \$85 per hour per attorney, and in total amount not exceeding \$5000, shall be recoverable as costs (by the filing of a cost bill) by the prevailing party in any action or actions to enforce the provisions of this Agreement. The above \$5000 limit is the total of attorney fees recoverable whether in the trial court, appellate court, or otherwise, and regardless of the number of attorneys, trials, appeals, or actions. It is the intent of this Agreement that neither party shall have to pay the other more

than \$5000 for attorney fees arising out of an action, or actions to enforce the provisions of this Agreement.

SECTION 17 - NON-DISCRIMINATION

CONTRACTOR warrants that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal employment opportunity. Neither CONTRACTOR nor any of its subcontractors shall discriminate in the employment of any person because of race, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act.

SECTION 18 - MEDIATION

Should any dispute arise out of this Agreement, any party may request that it be submitted to mediation. The parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the parties shall each submit one name from mediators listed by either the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfolded" process.

The cost of mediation shall be borne equally by the parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the parties but not more than 60 days, unless the maximum time is extended by the parties.

SECTION 19 - LITIGATION

CONTRACTOR shall testify at CITY'S request if litigation is brought against CITY in connection with CONTRACTOR'S services under this Agreement. Unless the action is brought by CONTRACTOR, or is based upon CONTRACTOR'S wrongdoing, CITY shall compensate CONTRACTOR for preparation for testimony, testimony, and travel at CONTRACTOR'S standard hourly rates at the time of actual testimony.

SECTION 20 - NOTICES

All notices hereunder shall be given in writing and mailed, postage prepaid, addressed as follows:

To CITY: City of San Mateo
330 W. 20th Avenue
San Mateo, CA 94403

To CONTRACTOR: Daryl D. Jones
Telecommunications Engineering Associates
1160 Industrial Rd. #15
San Carlos, CA 94070

**SECTION 21 - AGREEMENT CONTAINS ALL
UNDERSTANDINGS; AMENDMENT**

This document represents the entire and integrated agreement between CITY and CONTRACTOR and supersedes all prior negotiations, representations, and agreements, either written or oral.

This document may be amended only by written instrument, signed by both CITY and CONTRACTOR.

SECTION 22 - GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of California and, in the event of litigation, venue will be in the County of San Mateo.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement the day and year first above written.

CITY OF SAN MATEO

CONTRACTOR

Chief of Police

Daryl D. Jones

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
TERMS AND CONDITIONS OF
SERVICE AND MAINTENANCE AGREEMENT

The following conditions or clarifications are included under the maintenance agreement, but not limited to:

1. 7x24-hour coverage will be provided on all fixed equipment indicated on Schedule A. An acknowledgement by telephone will be received within 30 minutes of a request for service. The Contractor will verify the call for service has been received, provide immediate telephone consultation for the problem, if applicable, and provide an ETA. Response to emergency requests for service on equipment listed as 7 x 24 hour coverage will be within one hour. Emergency requests are justified when a malfunction of equipment has a major affect on day to day operations. An example of a justifiable emergency service request would be a major failure of the Zetron M4040 console or other system component resulting in the inability of the City's dispatch center to operate. High priority service requests will be responded to within 8 hours of notification. An example of a high priority service request would be if the primary police dispatch channel failed causing all traffic to be moved to a secondary channel. Non-critical service requests will be handled within 16 hours of notification. Examples include console headset jack failures and reports of intermittent problems.
2. All labor, travel, test equipment and tools to provide necessary repair will be provided at the expense of the Contractor. Contractor shall furnish parts necessary to accomplish repairs up to \$100 per failure occurrence and invoice the City for amounts over \$100. Sufficient parts stock for critical components will be on hand locally to keep system downtime to a minimum.
3. Preventative maintenance will be performed on all equipment. Preventative maintenance is defined as the inspection of all equipment listed on attached schedules, to see that the equipment is working properly and is not in condition where it will cease to function properly during the term of the maintenance contract. The cost of all time and materials charges for necessary repairs and replacement to be borne by the Contractor. All fixed equipment will receive one preventative maintenance inspection (PM's) annually. Scheduling of PM's will be initiated by the Contractor and coordinated by the Contractor and Communications staff to minimize the impact on operations.
4. Continual up-to-date training of the service personnel will be provided by the Contractor enabling technicians to keep abreast of operational changes. All servicing and maintenance of radio equipment will be performed by a responsible person certified as technically qualified to perform such duties and possessing any applicable license(s) or permit(s). In addition, adequate cross-familiarization training will be conducted to ensure the two-way radio technicians are capable of isolating failures associated with the data systems portion of the total communications system and assisting the Data Service Technician in resolving the failure (if applicable.) Staff must be knowledgeable about the

San Mateo County coordinated Law Enforcement Radio System.

5. Contractor must have current successful experience with complex systems, such as voted radio systems, the Zetron Model 4000 console equipment, and TCP/IP computer networks. Contractor should have resources to support data communications equipment, including computers, printers, and data multiplexers.
6. Information relating to level of system performance and status of maintenance will be documented by Contractor's service personnel and will be available for review by City staff.
7. The equipment inventory on the attached schedules reflects the City's best and most current information. Contractor will submit corrections as inventory information becomes available during the contract period. The City may add or delete units to or from this Contract as new equipment is acquired, or as equipment is retired from service. Corresponding adjustments to the Contract payment amount will be made at the unit prices established in the Contract. If a price is not established, new equipment maintenance prices will be established through negotiation or from the Contractor's published rate sheet. Charges for equipment deleted will cease as of the day service is canceled. Charges for equipment added will commence as of the day service is commenced. Such charges will be calculated and presented in a written proposal to the Communications Manager. NOTE: Adjustments for periods of less than one (1) month will be pro-rated on a daily basis based in a thirty (30) day month.
8. The following equipment items and services are specifically excluded from this proposal. The following services may be provided on a time and materials basis.
 - .. Antennas – Base station antennas and coaxial cable at all sites.
 - .. Telephone handsets and headsets.
 - .. Computer display monitors (CRT and LCD)
 - .. Batteries
 - .. System relocation or design changes.
 - .. Installation of new equipment

The maintenance program does not include costs for damage to equipment through physical abuse or Acts of God or terrorism. When Contractor determines repair of an item is necessitated by physical damage or abuse, approval to proceed with repair must be secured from the City before any action to repair is undertaken. Any such "above contract" charges incurred without prior approval of the City will not be valid. Small system changes and equipment rearrangements will be done at no additional charge.

9. The external connections to the system are: (a) master logger recorder; (b) instant recall recorders; and (c) leased line telephone equipment. This contract includes maintenance and analysis up to the respective terminals (equipment or modems) of these external systems.

10. System problems are not always caused by failures of radio equipment. Trouble with complex systems can be attributed to problems with power, telephone lines, or installation craftsmanship. The Contractor will promptly deal with these situations with no additional charge to the City. "Finger pointing," or blaming others for problems is not acceptable. The Contractor will be responsible to resolve these issues on behalf of the City.
11. It is understood Contractor's personnel will need to periodically maintain possession of radio equipment which belongs to the City. Contractor agrees to exercise reasonable care for the equipment, track the location of such equipment, and shall be responsible for its return to the City, or its replacement if lost.
12. The City of San Mateo operates on a two-year budget, each fiscal year beginning on July 1 and ending June 30. Therefore, it is necessary to review the fees charged for services provided under this agreement in February of each year. If adjustments in fees are required, the City will be notified, in writing, prior to February 15th. No increase in fees will be made during any fiscal year, unless equipment is added to or deleted from the equipment itemization list.
13. Contractor will guarantee that the rates listed on attached schedules will be in effect during the term of the agreement(s).
14. Payment is due within thirty (30) days of the billing date, which shall be the first day of the month following service.
15. Contractor will make recommendations for the deletion/replacement of equipment which is beyond repair, or unreliable for usage in a public safety environment.

MAINTENANCE AND REPAIR SERVICE

The Contractor will make every effort to keep the equipment covered by this proposal in excellent working condition by using modern preventative maintenance techniques. The goal is to prevent malfunctions, which would affect day-to-day operations.

All labor necessary to accomplish preventative maintenance and repair will be provided without additional charge.

FACILITIES MANAGEMENT SERVICES

Contractor will make recommendations to the City when equipment needs to be replaced and offer suggestions about new products and equipment which can be used to enhance system performance.

Contractor will assume the responsibility for recordkeeping of all special telephone circuits used for radio communications. Contractor will notify the City within 15 days when unused circuits can be disconnected.

Contractor will provide consulting/engineering services for any system or piece of equipment covered under this proposal without additional charge. This includes consulting/engineering services to make system design changes. Labor and materials necessary to accomplish the design changes are at additional cost.

Contractor will write bid specifications for base station equipment when directed to do so by the City.

Contractor will provide written reports on the status of the City's communications system when requested by the City.

Contractor shall assist the City in keeping FCC licenses up to date.

Contractor will provide quality system documentation for the portion of public safety system(s) they are responsible for maintaining. Documentation shall be neat and thorough and copies of the documentation provided to the City.

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September 1, 2020

Schedule "A"

PD-1 SYSTEM	Quantity	Monthly Cost Each	Monthly Total
T-Band duplex base station	3	\$165	\$495
T-band voting receiver	3	\$76	\$228
Motorola Digitac comparator w/ power supply	1	\$136	\$136
Transmitter site-select relay system	1	\$7	\$7
CTI comparator display system	0	\$18	\$0
		Total >>	\$866
PD-2 SYSTEM	Quantity	Monthly Cost Each	Monthly Total
T-Band duplex base station	3	\$165	\$495
T-band voting receiver	3	\$76	\$228
Motorola Digitac comparator w/ power supply	1	\$136	\$136
Transmitter site-select relay system	1	\$7	\$7
CTI comparator display system	0	\$18	\$0
		Total >>	\$866
DPW SYSTEM	Quantity	Monthly Cost Each	Monthly Total
VHF duplex base station	2	\$158	\$316
VHF voting receiver	1	\$76	\$76
Motorola Digitac comparator w/ power supply	1	\$136	\$136
Transmitter site-select relay system	1	\$7	\$7
CTI comparator display system	0	\$18	\$0
Desk set remote control	0	excluded	excluded
		Total >>	\$535
ADTRAN T1 MULTIPLEXERS	Quantity	Monthly Cost Each	Monthly Total
Adtran Atlas 550 multiplexer and DACS	0	\$125	\$0
Adtran TA-850 multiplexer	0	\$58	\$0
		Total >>	\$0

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September 1, 2020

Schedule "A"

ZETRON M4000 CONSOLE SYSTEM	Quantity	Monthly Cost Each	Monthly Total
IntegratorRD operator position	8	\$140	\$1,120
Touchscreen LCD computer display	8	excluded	excluded
M4048 card cage	1	\$125	\$125
M4048 redundant power supply	1	\$65	\$65
M4048 system traffic card	2	\$55	\$110
M4048 console interface card	8	\$40	\$320
M4048 dual channel control card	12	\$35	\$420
M4048 aux I/O card	2	\$22	\$44
M4048 radio/telephone headset interface	16	\$15	\$240
M4048 footswitch	0	\$8	\$0
		Total >>	<u>\$2,444</u>

MISCELLANEOUS EQUIP.	Quantity	Monthly Cost Each	Monthly Total
CDM monitor receivers	0	\$18	\$0
UHF T-band control base station	0	\$84	\$0
Receiver multicouplers	0	\$12	\$0
CCC disconnect timer system	1	\$15	\$15
NetClock	0	\$50	\$0
		Total >>	<u>\$15</u>

SUMMARY

	Monthly Total
PD-1 SYSTEM	\$866
PD-2 SYSTEM	\$866
DPW SYSTEM	\$535
ADTRAN T1 MULTIPLEXERS	\$0
ZETRON M4000 CONSOLE SYSTEM	\$2,444
MISCELLANEOUS EQUIP.	<u>\$15</u>
Monthly Total	\$4,726
Less 10% for 5 year commitment	<u>\$473</u>
	\$473
Monthly Total With Discount	\$4,253
Annual Total With Discount	\$51,041