

**AGREEMENT WITH TELECOMMUNICATIONS ENGINEERING ASSOCIATES
(TEA) FOR FIRE STATION ALERTING SYSTEM HARDWARE, SOFTWARE AND
SERVICES**

This Agreement, made and entered into this ____ day of _____, _____, by and between the COASTSIDE FIRE PROTECTION DISTRICT, a California Fire District existing under the laws of the State of California ("COASTSIDE"), and Daryl D. Jones, Inc. dba Telecommunications Engineering Associates ("CONTRACTOR"), a California Corporation whose address is 1160 Industrial Road, Suite 15, San Carlos, CA 94070.

R E C I T A L S:

A. COASTSIDE desires certain computer software, telecommunications hardware and installation services hereinafter described.

B. COASTSIDE desires to engage CONTRACTOR to provide these materials and 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.

CONTRACTOR shall provide a warranty for the software and hardware provided to COASTSIDE pursuant to this agreement according the terms and conditions of the Warranty/Disclaimer of Liability, which is attached hereto as Exhibit B and incorporated herein by reference. For the sake of clarity, this Warranty/Disclaimer of Liability applies to the FSALERT software provided for in Exhibit B.

CONTRACTOR shall provide a license to COASTSIDE to use the FSALERT software pursuant to the terms and conditions of the Software License Agreement, which is attached hereto as Exhibit C and incorporated herein by reference.

To the extent applicable, CONTRACTOR and all subcontractors shall comply with the requirements of the California Labor Code including but not limited to hours of labor, nondiscrimination, payroll records, apprentices, workers' compensation, contractor registration, certified payroll records, debarment of contractors and subcontractors, and prevailing wages. No less than the general prevailing rate of per diem wages for holidays and overtime work, for each craft, classification or type of worker needed to execute the work under this Agreement shall be paid to all workers, laborers and mechanics employed in the execution of the work by the CONTRACTOR or any subcontractor doing or contracting to do any part of the work.

SECTION 3 – DUTIES OF COASTSIDE

COASTSIDE shall provide pertinent information regarding its requirements for the project. COASTSIDE 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, 2019 and be completed on or about December 31, 2020, provided, however, that the term of the software license for "FSALERT" software shall be as set forth in Exhibit C.

SECTION 5 – PAYMENT

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

SECTION 6 – TERMINATION

Without limitation to such rights or remedies as COASTSIDE shall otherwise have by law, COASTSIDE 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 COASTSIDE, whether the project for which they are made is executed or not. Computer software and its documentation shall be the property of its owner and CONTRACTOR shall extend a perpetual license to COASTSIDE to use the software and documentation, subject to the terms stated in this document.

SECTION 8 – CONFIDENTIALITY

All reports and documents prepared by CONTRACTOR in connection with the performance of this Agreement are confidential until released by COASTSIDE to the public. CONTRACTOR shall not make any such documents or information available to any individual or organization not employed by CONTRACTOR or COASTSIDE without the written consent of COASTSIDE 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 COASTSIDE 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 COASTSIDE while providing services under this Agreement.

SECTION 11 – INDEMNITY

CONTRACTOR agrees to indemnify, defend, and hold harmless the COASTSIDE and its elected and appointed officials, employees, and agents ("COASTSIDE Indemnified Parties") from any and all claims, demands, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, liabilities, and expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees ("Claims"), arising out of or relating to (i) any alleged or actual infringement of a third-party's intellectual property rights or (ii) the negligence or willful misconduct of any employee or agent of TEA occurring during or as a result of CONTRACTOR's performance of its obligations hereunder or (iii) active or passive negligence of COASTSIDE Indemnified Parties, provided that CONTRACTOR shall have no indemnity or other obligations to the COASTSIDE hereunder to the extent any such Claims arise from or are the result of the sole negligence or willful misconduct of the COASTSIDE or its employees, agents or other contractors, nor shall the foregoing indemnity and hold harmless obligations of CONTRACTOR extend to or cover any Claims arising from or relating to claims of defects or errors in the Software or the COASTSIDE's use or misuse of the Software. The obligations to indemnify, defend, and hold harmless set forth in this Section shall survive the expiration, cancellation or termination of this Agreement. Notwithstanding the foregoing, the COASTSIDE expressly waives, releases, and agrees that neither TEA nor CONTRACTOR's officers, directors, shareholders, employees, agents and affiliates shall have any liability for any individual's or entity's lost business, direct damages, incidental or consequential damages, or any other Claims arising out of or related to the use or implementation of the Software.

SECTION 12 – INSURANCE

Contractor shall procure and maintain for the duration of the contract the insurance specified in Exhibit E to this Agreement, which is attached hereto and incorporated herein by reference.

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 COASTSIDE.

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 COASTSIDE 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 COASTSIDE 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 total amount not exceeding \$5,000, 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 \$5,000 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 provision 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 State Mediation and Conciliation Service, or other agreed-upon service. The mediator shall be selected by a blind draw.

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 COASTSIDE'S request if litigation is brought against COASTSIDE in connection with CONTRACTOR'S services under this Agreement. Unless the action is brought by CONTRACTOR, or is based upon CONTRACTOR'S wrongdoing, COASTSIDE 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 COASTSIDE:	Ian Larkin, Fire Chief Coastside Fire Protection District 1191 Main Street Half Moon Bay, CA 94014
To CONTRACTOR:	Daryl Jones, President Daryl D. Jones, Inc. DBA 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 COASTSIDE 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 COASTSIDE 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, COASTSIDE and CONTRACTOR have executed this Agreement the day and year first above written.

COASTSIDE FIRE PROTECTION
DISTRICT

CONTRACTOR

Daryl Jones, President

EXHIBIT A

SCOPE OF SERVICES

Cost Schedule and Itemized List of Software, Hardware and Services

TEA will provide, and the COASTSIDE will compensate TEA for the hardware, software and services as described below:

Quote# 20182435	\$ 37,340.14
Quote# 20182436	\$ 19,894.28
Quote# 20182437	<u>\$ 8,126.30</u>
Project Total	\$ 65,360.72

TEA Quote# 20182435

<i>Item</i>	<i>Price Each</i>	<i>Quantity</i>	<i>Price Total</i>	<i>*</i>	<i>Sales Tax</i>
New STN41 Construction Project:					
Apparatus Bay Speaker System	\$425.00	6	\$2,550.00	*	\$223.13
Dual Channel Indoor Speakers w/ backboxes	\$124.00	34	\$4,216.00	*	\$368.90
Outdoor Horn Speakers	\$175.00	2	\$350.00	*	\$30.63
Public Address System Common Equipment	\$800.00	1	\$800.00	*	\$70.00
PA System Wiring	\$25.00	36	\$900.00	*	\$78.75
Selective Dorm Alerting Option	\$525.00	1	\$525.00	*	\$45.94
Remote Alert Acknowledgement Panels	\$100.00	3	\$300.00	*	\$26.25
Stove Gas/Electric Shutoff / Light Control Relays	\$65.00	10	\$650.00	*	\$56.88
Alerting System Building Controller	\$1,500.00	1	\$1,500.00	*	\$131.25
Outdoor ADA Compliant Emergency Phone	\$912.00	1	\$912.00	*	\$79.80
Services:					
Systems engineer/project manager	\$155.00	59	\$9,145.00		
Systems technician	\$125.00	112	\$14,000.00		

Subject to the terms of the TEA Billing & Fee Policy dated November 12, 2011

This is a fixed-fee, lump-sum quotation.

Sales tax applies to shipping and handling charge.

Sub-Total:	\$35,848.00
Sales Tax:	\$1,142.14
Shipping & Handling:	\$350.00
TOTAL:	\$37,340.14

Exhibit A (Continued) to the Hardware, Software and Services Agreement

Cost Schedule and Itemized List of Software, Hardware and Services

TEA Quote# 20182436

Item	Price Each	Quantity	Price Total	*	Sales Tax
Fire station alerting system hardware and software in accordance with the San Mateo County coordinated fire station alerting system plan. (New STN41 only)					
Equipment, materials and software					
FSA Fire Station Panel software	\$4,226.00	1	\$4,226.00	*	\$369.78
Industrial panel computer	\$3,076.00	1	\$3,076.00	*	\$269.15
Computer housing materials and fabrication	\$509.00	1	\$509.00	*	\$44.54
Barix Barionet 50 w/ power system	\$605.00	1	\$605.00	*	\$52.94
Additional Barix Barionet	\$603.00	1	\$603.00	*	\$52.76
Secondary alerting system	\$1,150.00	1	\$1,150.00	*	\$100.63
VPN firewall appliance	\$1,270.00	1	\$1,270.00	*	\$111.13
UPS power supply	\$252.00	1	\$252.00	*	\$22.05
12v DC power supply	\$158.00	1	\$158.00	*	\$13.83
Ethernet switch	\$179.00	0	\$0.00	*	\$0.00
Printer w/ Ethernet adapter	\$814.00	1	\$814.00	*	\$71.23
Audio distribution amp (not a PA amp)	\$271.00	1	\$271.00	*	\$23.71
Additional 12VDC Battery Backed Up Supply	\$1,200.00	0	\$0.00	*	\$0.00
Misc hardware and installation supplies	\$382.00	1	\$382.00	*	\$33.43
Onsite standard installation services	\$5,250.00	1	\$5,250.00		

Subject to the terms of the TEA Billing & Fee Policy dated January 1, 2011

This is a cost estimate and not a firm, fixed-fee quotation.

Sales tax applies to shipping and handling charge.

Sub-Total:	\$18,566.00
Sales Tax:	\$1,178.28
Shipping & Handling:	\$150.00
TOTAL:	\$19,894.28

Exhibit A (Continued) to the Hardware, Software and Services Agreement

Cost Schedule and Itemized List of Software, Hardware and Services

TEA Quote# 20182437

<i>Item</i>	<i>Price Each</i>	<i>Quantity</i>	<i>Price Total</i>	<i>*</i>	<i>Sales Tax</i>
For new STN41: Install fire station radios and antenna, 12V/24V Power Supplies with battery backed up units per San Mateo County coordinated alerting plan					
Materials & Equipment:					
Kenwood VHF radio with DTMF decoder	\$850.00	1	\$850.00	*	\$74.38
12VDC power supply with battery backup	\$1,200.00	1	\$1,200.00	*	\$105.00
24VDC power supply with battery backup	\$442.00	1	\$442.00	*	\$38.68
VHF base station antenna	\$485.00	1	\$485.00	*	\$42.44
Coaxial cable line kit	\$580.00	1	\$580.00	*	\$50.75
Antenna cable brackets and mounts	\$125.00	1	\$125.00	*	\$10.94
Wallmount secure equipment cabinet or shelving	\$435.00	1	\$435.00	*	\$38.06
Misc materials and installation supplies	\$125.00	1	\$125.00	*	\$10.94
Services:					
Shop fabrication and staging	\$600.00	1	\$600.00		
Onsite standard installation	\$2,750.00	1	\$2,750.00		

Subject to the terms of the TEA Billing & Fee Policy dated January 1, 2011

This is a cost estimate and not a firm, fixed-fee quotation.

Sales tax applies to shipping and handling charge.

Sub-Total:	\$7,592.00
Sales Tax:	\$384.30
Shipping & Handling:	\$150.00
TOTAL:	\$8,126.30

Exhibit B: Warranty/Disclaimer of Liability

1. CONTRACTOR warrants that upon delivery the Software and Hardware will substantially conform to its Documentation and will be free from defects that will materially impair its use. The COASTSIDE's sole remedy for breach of this warranty will be repair or replacement of the Software or Hardware. CONTRACTOR will make reasonable efforts to correct errors in the Software and Hardware, but does not warrant that the Software or Hardware is error-free or will perform without interruption. The COASTSIDE has relied solely upon its own investigation and judgment in selecting the Software and Hardware, and not upon any representations or promises of CONTRACTOR except as may be expressly stated herein.
2. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND CONTRACTOR SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
3. IN NO EVENT WILL CONTRACTOR BE LIABLE FOR LOST BUSINESS, DIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE) ARISING OUT OF THE QUALITY, CONDITION OR USE OF THE SOFTWARE. IN NO EVENT WILL TEA BE LIABLE FOR ANY AMOUNT WHICH EXCEEDS THE CONTRACT AMOUNT. THE FORGOING SENTENCES NOTWITHSTANDING, THE PROVISIONS OF THIS SECTION SHALL NOT LIMIT TEA'S OBLIGATIONS TO INDEMNIFY, DEFEND, AND HOLD HARMLESS PURSUANT TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, SECTION 2 AND SECTION 11 ABOVE“”.

Exhibit C: Software License and Usage Agreement

- A. CONTRACTOR owns, or has licensed from the owner, certain computer software collectively known as “FSALERT” (the “SOFTWARE”).
- B. COASTSIDE enters into this SOFTWARE LICENSE AGREEMENT (“LICENSE AGREEMENT”) because it desires to obtain the right to use the SOFTWARE, subject to the terms, conditions, and limitations set forth herein.

Accordingly, the parties to this LICENSE AGREEMENT covenant and agree as follows:

DEFINITIONS. The terms enumerated in this Section have the following meanings when used in this LICENSE AGREEMENT:

B.1 “Confidentiality Product Information” means any and all confidential information of a party to this LICENSE AGREEMENT related to the SOFTWARE that is not generally known to or by businesses that compete with such a party, including but not limited to source code for the SOFTWARE.

B.2 “Documentation” means those visually readable materials developed by or for CONTRACTOR for use in connection with the SOFTWARE, in either written or digital form.

C. LICENSE

C.1 CONTRACTOR grants to the COASTSIDE a nonexclusive and non-transferable license to use the SOFTWARE in connection with COASTSIDE’s normal and customary daily operations substantially as they exist as of the date of commencement of the TERM as described below (the “LICENSE”). COASTSIDE shall acquire no ownership or other rights in or to the SOFTWARE except for the LICENSE granted hereunder, and title to the SOFTWARE shall at all times remain with CONTRACTOR. Pursuant to the LICENSE, COASTSIDE may do the following:

- Use the SOFTWARE on specialized computers at one (1) COASTSIDE fire station;

C.2 No one using the SOFTWARE, and no one for whose benefit the SOFTWARE is being used, shall provide or otherwise make available the SOFTWARE or any part or copies thereof to any third party.

C.3 The LICENSE granted under this LICENSE AGREEMENT shall apply only to the object code for the SOFTWARE. No one using the SOFTWARE, and no one for whose benefit the SOFTWARE is being used shall have the right to use or have access to the source code for the SOFTWARE, and neither COASTSIDE nor anyone using the SOFTWARE pursuant to this LICENSE will modify, change, merge, adapt, translate, reverse engineer, decompile, or disassemble the SOFTWARE.

C.4 CONTRACTOR declares that the SOFTWARE and the Documentation constitute trade secrets of CONTRACTOR. CONTRACTOR acknowledges that COASTSIDE is a public agency subject to the disclosure requirements of the California Public Records Act (“CPRA”). If confidential information is contained in documents submitted by CONTRACTOR to COASTSIDE, and CONTRACTOR expressly claims that such information falls within one or more CPRA exemptions, CONTRACTOR must clearly mark such information “CONFIDENTIAL” or “PROPRIETARY,” and identify the specific lines containing the confidential information. In the event of a request for such information, the COASTSIDE will make reasonable efforts to provide notice to CONTRACTOR prior to such disclosure, allowing enough time for CONTRACTOR to seek a protective order, injunctive relief, or other appropriate remedy. If CONTRACTOR contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required at its own cost, liability, and expense to obtain a protective order, injunctive relief or other appropriate remedy from a court having jurisdiction over the matter at least two (2) days before COASTSIDE’s deadline to respond to the CPRA request. COASTSIDE shall provide CONTRACTOR with all reasonable assistance, at CONTRACTOR’s expense, in obtaining such protections. If CONTRACTOR fails to obtain such a remedy before the deadline for COASTSIDE’s response to the CPRA request, COASTSIDE will disclose the requested information and shall not be liable or responsible for such disclosure.

D. SOFTWARE LICENSE TERM

D.1 The term of this LICENSE AGREEMENT, and of the LICENSE granted hereunder, shall commence upon installation of the SOFTWARE at COASTSIDE’s fire stations and shall continue until this LICENSE AGREEMENT is terminated (the “TERM”).

D.2 CONTRACTOR may terminate this LICENSE AGREEMENT and the LICENSE in the event of any failure by COASTSIDE to comply with the terms or conditions of this LICENSE AGREEMENT by giving written notice of such failure to COASTSIDE. Such notice shall provide a period of thirty (30) working days for COASTSIDE to cure the failure. In the event COASTSIDE does not cure, then CONTRACTOR may immediately terminate this LICENSE AGREEMENT by providing written notice to the COASTSIDE of such termination. Upon such termination, COASTSIDE shall immediately cease further use of the SOFTWARE and will cause all copies of the SOFTWARE to be destroyed or returned to CONTRACTOR. Upon such termination, CONTRACTOR shall refund to COASTSIDE any moneys which have been paid by COASTSIDE to CONTRACTOR in advance for services which CONTRACTOR has not performed pursuant to this agreement.

D.3 COASTSIDE may terminate this LICENSE AGREEMENT and the LICENSE at any time by giving written notice thereof to CONTRACTOR and by destroying or returning to CONTRACTOR all copies of the SOFTWARE.

D.4 Upon any termination or expiration of this LICENSE AGREEMENT, an authorized representative of COASTSIDE shall certify in writing to CONTRACTOR that

all copies of the SOFTWARE which were the subject of the LICENSE have either been destroyed or returned to CONTRACTOR as required above.

E. SOFTWARE UPDATES

E.1 CONTRACTOR may, at its option, release updates to or new versions of the SOFTWARE. If COASTSIDE elects to obtain any update or new version of the SOFTWARE, the use of such update or new version will be subject to the terms and conditions of this LICENSE AGREEMENT.

F. SOFTWARE OWNERSHIP

F.1 Except as expressly provided in this LICENSE AGREEMENT, CONTRACTOR and its software developers retain all intellectual property rights and other rights to the SOFTWARE, Documentation, and the source code for the SOFTWARE.

Attachment A to the Hardware, Software and Services Agreement

Representative Image of Fire Station Control Panel Software

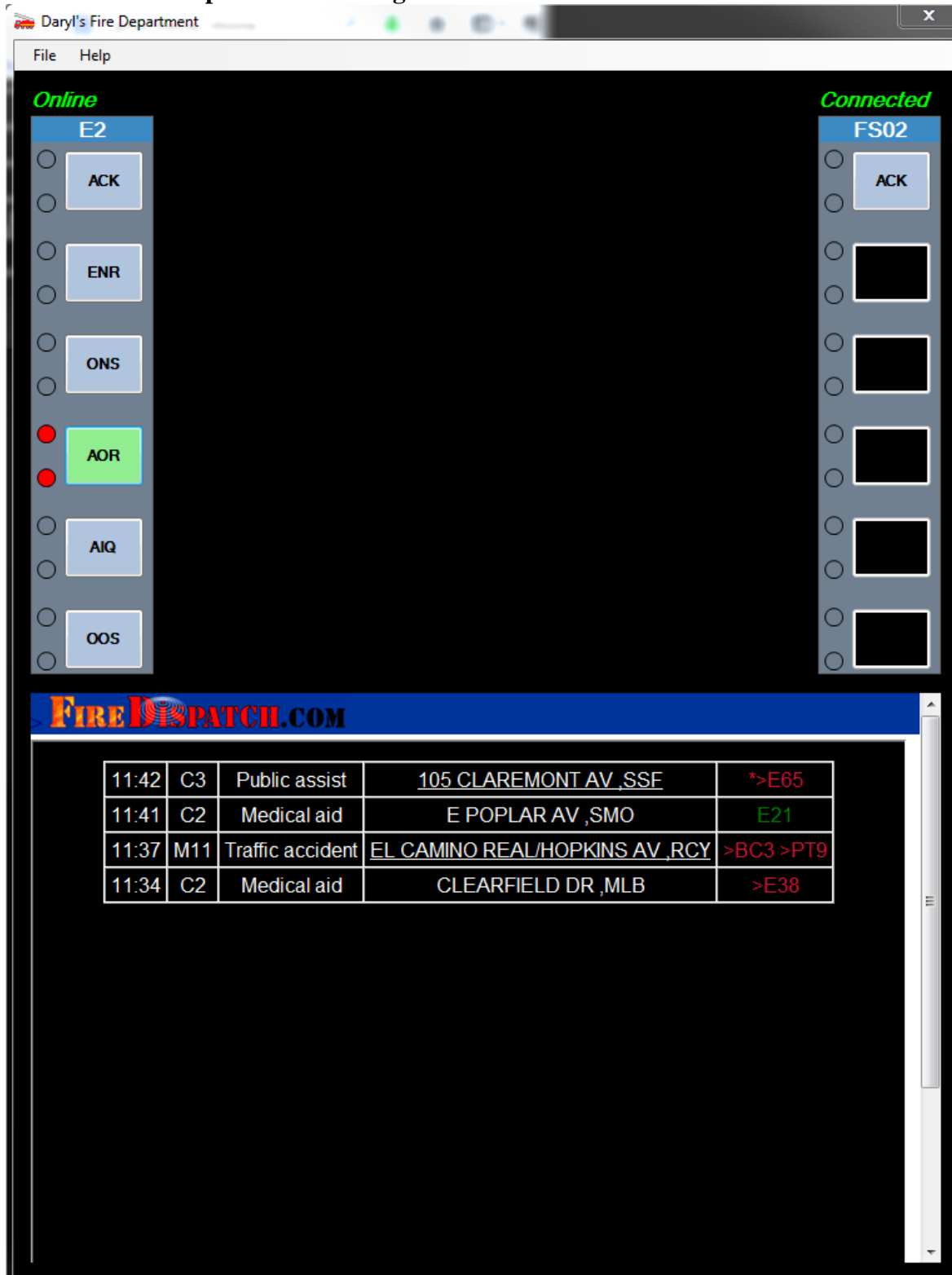


EXHIBIT D

PAYMENT RATES

Payment Schedule. In consideration for the Software, Hardware and Services to be provided by CONTRACTOR under this Agreement, the COASTSIDE agrees to pay CONTRACTOR the amount of Sixty Five Thousand Three Hundred Sixty Dollars and Seventy Two Cents (\$65,360.72) (“Contract Amount”) itemized in Exhibit A according to the following schedule (“Payment Schedule”):

<u>Milestone</u>	<u>Amount of Payment</u>
Contract Signing	25% of Contract Amount
Delivery of software and hardware	25% of Contract Amount
Operational Use of Software	50% of Contract Amount

The COASTSIDE shall not be entitled to withhold or delay payments due to CONTRACTOR pursuant to the above Payment Schedule due to delay in the delivery, installation, or testing of the Software where the delay is the result of action or inaction or breach of this Agreement by the COASTSIDE, its agents or employees or the action or inaction of a third party which is not within CONTRACTOR’s reasonable control.

EXHIBIT E

INSURANCE REQUIREMENTS

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an “occurrence” basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation:** 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.

If the contractor maintains higher limits than the minimums shown above, the COASTSIDE requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The COASTSIDE, its elected and appointed officials, employees, and agents are to be covered as insureds on the auto policy for liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor’s insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the **Contractor’s insurance coverage shall be primary** insurance as respects the COASTSIDE, its elected and appointed officials, employees, and agents. Any insurance or self-insurance maintained by the COASTSIDE, its elected and appointed officials, employees, or agents shall be excess of the Contractor’s insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that **coverage shall not be canceled, except after thirty (30) days’ prior written notice** (10 days for non-payment) has been given to the COASTSIDE.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the COASTSIDE. The COASTSIDE may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the COASTSIDE.

Verification of Coverage

Contractor shall furnish the COASTSIDE with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the COASTSIDE before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The COASTSIDE reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.