



Contract Number

[REDACTED]

SAP Number

N/A

Information Services Department

Department Contract Representative
Telephone Number

[REDACTED]

Customer
Customer Representative
Telephone Number
Contract Term
Original Contract Amount
Amendment Amount
Total Contract Amount
Cost Center

[REDACTED]

Based on actual usage

-

Based on actual usage

Information Technology Contract Template

This Contract is entered into in the State of California by and between the County of San Bernardino Information Services Department (ISD), hereinafter called the County, and [insert legal Customer name], hereinafter called Customer.

IT IS HEREBY AGREED AS FOLLOWS:

A. TYPE OF AGREEMENT

This is the County standard agreement for the purchase of information technology (IT) services ("Services"). Customer understands that the County may elect to have other vendors provide similar professional services either under other agreements or under other contracts. Employees or subcontractors of the County, hereinafter referred to as "Personnel", shall render such services.

A.1 ISD services are initiated at the customer's request, subject to ISD's approval, and consist of the following types of service charges, which are further identified in Attachment A, "2020-21 ISD Rate Sheet":

A.1.1 Per item; one-time charge as requested.

A.1.2 Per month; per unit charge ongoing until Customer submits a request to cancel.

A.1.3 Per hour; per work order, project, or quote.

A.2 ISD services are listed in full and are detailed by service name, service description, rate, and charge measurement as identified in Attachment A, "2020-21 ISD Rate Sheet." ISD services in Attachment A are available under this contract with the exception of the services listed as follows, which are provided under separate contracts:

A.2.1 WAN Expansion Installation

A.2.2 Dispatch Console Access, Maintenance, and Replacement

A.2.3 Pager Access

A.2.4 Radio Access and Maintenance

A.2.5 Radio Labor Services

A.2.6 Radio Mobile Data Access

Attachment A is further explained in paragraph F.3, "Fiscal Provisions" of this Contract.

B. CUSTOMER RESPONSIBILITIES

B.1 Determine services needed from County, including any increase or decrease in ongoing services.

B.1.1 Customer is responsible to initiate or cancel any services via submission of a Help Desk Ticket. The County Help Desk can be contacted by calling 909-884-4884 or isdhelpdesk@isd.sbcounty.gov (email for non-urgent requests only).

B.2 Promptly inform County, in writing, of any pending changes in programs/funding respective to services provided herein.

B.3 Adhere to State, County, and ISD policies and procedures regarding ISD services.

C. GENERAL CONTRACT REQUIREMENTS

C.1 Contract Amendments

Customer agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Customer and County.

C.2 Contract Assignability

Without the prior written consent of the County, the Contract is not assignable by Customer either in whole or in part.

C.3 Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

C.4 Change of Address

Customer shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

C.5 Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

C.6 Confidentiality

Customer shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Customer shall not use or disclose any identifying information for any other purpose other than carrying out the Customer's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

C.7 Primary Point of Contact

Customer will designate an individual to serve as the primary point of contact for the Contract. Customer shall not change the primary contact without written acknowledgement to the County. Customer will also designate a back-up point of contact in the event the primary contact is not available.

C.8 County Representative

The *Chief Information Officer* or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by County. If this Contract was initially approved by the San Bernardino County Board of Supervisors (Board), then the Board must approve all amendments to this Contract.

C.9 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

C.10 Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.11 Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

C.12 Nondisclosure

Customer shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Customer or an agent of Customer or otherwise made available to Customer or Customer's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Customer or an agent of Customer regarding this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

C.13 Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

C.14 Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

C.15 Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Contract or Customer's relationship with County may be made or used without prior written approval of the County.

C.16 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

C. 17 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

C.18 Termination for Convenience

The County and the Customer each reserve the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the County for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice County shall promptly discontinue services unless the notice directs otherwise.

C.19 Venue

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

D. TERM OF CONTRACT

This Contract is effective as of ***date** and remains in effect for a period of five (5) years. This Contract may be terminated earlier in accordance with provisions of this Contract.

E. COUNTY RESPONSIBILITIES

County will provide the services identified in Attachment A under this Agreement, with exception to excluded services listed in Section A.2, upon request by Customer, subject to ISD's approval, and in accordance with established work schedules and Board approved service rates.

F. FISCAL PROVISIONS

F.1 There is no minimum or maximum amount of payment under this Contract.

F.2 Services provided are charged equitably to all users in accordance with State Controller's Handbook of Cost Plan Procedures for California Counties.

- F.3** Charges will be based on actual usage at the Board approved rates effective at the time services are rendered. Rates are subject to change annually as approved by the Board and are effective July 1st of each year. Rates are also subject to change throughout the year via a mid-year rate change approved by the Board, if applicable. County will not amend this agreement due to rate changes or changes in usage amounts by the customer. Attachment A includes the list of ISD's Board approved service rates effective at the time this Contract is executed. County will attempt to provide at least thirty (30) days advance written notice of any rate change, which will be sent to Customer at the following address:

[Customer Name]

ATTN: Contracts Management and Accounts Receivable

[Customer Address]

- F.4** Payment for services provided shall occur on a monthly basis for actual expenses incurred and claimed by ISD (See Paragraph A of this Section). Monthly charges will be handled by an automated transfer processed by ISD via the County's Enterprise Financial Management System. A copy of the billing statement can be accessed via the ISD Billing System by Customer staff for Customers that have the required permissions on the County's network.

For those customers that are not using the County's Enterprise Finance Management System an invoice will be mailed on a monthly basis starting on the Effective Date of this Contract, or starting on the installation or implementation date, if applicable. Monthly payment shall be due sixty (60) days from date of invoice.

- F.5** Funds made available under this Contract shall not supplant any federal, state or governmental funds intended for services of the same nature as this Contract. ISD shall not claim reimbursement or payment from Customer or apply sums received from Customer with respect to that portion of its obligations which have been paid by another source of revenue. ISD agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of Customer.

G. DEFAULT

If the Customer does not make timely payment of amounts due under this Agreement or breaches any term or condition of this Agreement, County may declare immediately due and payable the entire unpaid amount, plus all other amounts due hereunder, less any unearned charges. County may also exercise all rights and remedies of a secured party under the Uniform Commercial Code (or other similar law) of the State of California and pursue any other remedies existing in law or in equity.

H. INDEMNIFICATION AND INSURANCE REQUIREMENTS

H.1 Indemnification

To the extent not prohibited or limited by law, each party agrees to defend and indemnify the other party and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising solely out of the party's acts, errors or omissions in the performance of this Contract. At its sole discretion, the indemnified party may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve the indemnifying party of any obligation imposed by this Contract. The party entitled to indemnification under this Contract shall notify the indemnifying party promptly of any claim, action or proceeding and cooperate fully in the defense. If County and/or Customer are determined to be comparatively at fault for any claim, action, loss or damage that results from their respective obligations under this Agreement, County and/or Customer shall indemnify the other to the extent of its comparative fault.

H.2 Insurance

County is an authorized self-insured public entity for purposes of General Liability and warrants that through its program of self-insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this

Agreement. Customer agrees to provide insurance set forth in accordance with the requirements herein. If Customer uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, Customer agrees to amend, supplement or endorse the existing coverage to do so.

- H.2.1** Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insured with respect to liabilities arising out of the performance of services hereunder.
- H.2.2** Waiver of Subrogation Rights – Customer shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit Customer and Customer's employees or agents from waiving the right of subrogation prior to a loss or claim. Customer hereby waives all rights of subrogation against the County.
- H.2.3** Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
- H.2.4** Severability of Interests – Customer agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between Customer and the County or between the County and any other insured or additional insured under the policy.
- H.2.5** Proof of Coverage – Customer shall furnish Certificates of Insurance to ISD evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to ISD, and Customer shall maintain such insurance for three (3) years after termination of the Agreement. Within fifteen (15) days of the commencement of this contract, Customer shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
- H.2.6** Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum Best Insurance Guide rating of A- VII.
- H.2.7** Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.
- H.2.8** Failure to Procure Coverage – In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by Customer.
- H.2.9** Insurance Review – Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management

determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

H.2.10 Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Customer agrees to execute any such amendment within thirty (30) days of receipt.

H.2.11 Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

H.2.12 Without in anyway affecting the indemnity herein provided and in addition thereto, the Customer shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

(i) Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of Customer and all risks to such persons under this contract.

(ii) Commercial/General Liability Insurance –Customer shall carry General Liability Insurance covering all operations performed by or on behalf of Customer providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment
- b. Products and completed operations
- c. Broad form property damage (including completed operations)
- e. Explosion, collapse and underground hazards
- f. Personal injury
- g. Contractual liability
- h. \$2,000,000 general aggregate limit

(iii) Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If Customer is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If Customer owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

(iv) Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a dropdown provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

I. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile with confirmation of receipt, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

County of San Bernardino
Department
Address

Contractor
Address

Notice shall be deemed as communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

J. ENTIRE AGREEMENT

This Contract, including all Attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

IN WITNESS WHEREOF, the County of San Bernardino and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

COUNTY OF SAN BERNARDINO
INFORMATION SERVICES DEPARTMENT

►

Chief Information Officer

(Print or type name of corporation, company, contractor, etc.)

By ►

(Authorized signature - sign in blue ink)

Name

(Print or type name of person signing contract)

Title

(Print or Type)

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form

►

County Counsel

Date _____