

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND SUN RIDGE SYSTEMS, INC.

This Agreement is entered into this 17th day of November, 2015, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and Sun Ridge Systems, Inc., a California Corporation, hereinafter called "Contractor."

* * *

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing law enforcement Records Management Software (RIMS) and ancillary software products ("Software"), and associated services for County's District Attorney's Office ("Services").

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Software Services
Exhibit B—Payment Schedule

Attachment IP – Intellectual Property

2. Deliverables to be provided by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall provide the Software and perform the Services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the payment schedule and in the manner specified in Exhibit B. In no event shall County's total fiscal obligation under this Agreement exceed ONE HUNDRED FIVE THOUSAND FOUR HUNDRED FIFTY-FOUR DOLLARS (\$105,454) unless authorized by County with a signed contract change order. In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from November 17, 2015 through November 16, 2016.

5. Termination; Availability of Funds

This Agreement may be terminated by County at any time without a requirement of good cause upon thirty (30) days' advance written notice to Contractor. Subject to availability of funding, Contractor shall be entitled to receive payment for Software and Services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the portion of Software and Services actually provided to the total Software and Services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

Either party may terminate this Agreement upon material breach of any of the terms of this Agreement by the other Party, after first giving the other party written notice of such breach and thirty (30) days to cure. If the breaching party does not cure the breach within the allotted time, the Agreement will be terminated. If Contractor gives a notice of breach to County, Contractor will have the right to suspend its performance under this Agreement without penalty or other adverse consequence unless and until County has cured the breach.

Upon termination of this Agreement, County will have no further right to use the Software and shall immediately and thereafter cease use of the Software, and shall delete, or destroy any copies, whether tangible or electronic, of Software pursuant to this Agreement, including but not limited to any Documentation and any Confidential Information stored on any equipment that may be returned, and certify to the Contractor in writing within five (5) business days of the termination date that it has done so.

"Confidential Information" means any and all confidential information of a party to this Agreement that is not generally known to or by members of the public, including but not limited to businesses that compete with such a party, including but not limited to the Software and the Documentation pertaining thereto. Confidential Information shall not include information that is now or becomes part of the public domain, is required by applicable law to be disclosed, was already known by the receiving party at the time of disclosure, is independently developed by the receiving party without any use of Confidential Information, or is lawfully obtained from a third party. "Documentation" means those visually readable materials developed by Contractor for use in connection with the Software, in either written or electronic form.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law subject, however, to the County's obligations under this Agreement to delete or destroy any copies, whether tangible or electronic, of Software, including but not limited to any Documentation and any Confidential Information stored on any equipment or otherwise in the possession of County, upon the termination of this Agreement.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

8. Warranty/Disclaimer of Liability

a. **Basic Warranty**

Contractor warrants that upon delivery the Software substantially conforms to its Documentation and is free from defects that will materially impair its use. County's sole and exclusive remedy for breach of this warranty will be repair or replacement of the Software. Contractor will make reasonable efforts to correct errors in the Software, but does not warrant that the Software is error-free or will perform without interruption. County has relied solely upon its own investigation and judgment in selecting the Software and not upon any representations or promises of Contractor except as may be expressly stated in this Agreement.

b. **No Other Warranties**

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES PERTAINING TO THE SOFTWARE, EXPRESS OR IMPLIED, AND SUN RIDGE SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

c. **No Consequential Damages**

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, THE DOCUMENTATION OR ANY OTHER PART OF THE PRODUCTS AND/OR SERVICES THAT ARE THE SUBJECT OF THIS AGREEMENT. IN NO EVENT WILL CONTRACTOR BE LIABLE FOR ANY AMOUNT WHICH EXCEEDS THE AMOUNT PAID BY COUNTY FOR THE PRODUCTS AND/OR SERVICES WHICH ARE THE SUBJECT OF THIS AGREEMENT.

9. **Hold Harmless**

a. **General Hold Harmless**

Contractor agrees to indemnify, defend and hold harmless the County and its elected and appointed officials, employees, and agents from any and all claims, demand, liabilities and costs including attorney's fees ("Claims") arising out of or relating to

- (i) sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (ii) the actions of any employee or agent of Contractor occurring during or as a result of Contractor's performance of its obligations hereunder, provided that Contractor shall have no indemnity or other obligations to the County hereunder to the extent any such Claims arise from or are the result of the negligence or other fault of the County or its employees, agents or other contractors.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, HOWEVER, THE FOREGOING INDEMNITY AND HOLD HARMLESS OBLIGATIONS OF SUN RIDGE SHALL NOT EXTEND TO OR COVER THE CLAIMS OF ANY PERSON OR ENTITY ARISING FROM OR RELATING TO THE CITY'S USE OR MISUSE OF THE SOFTWARE, WHETHER SUCH CLAIMS ARE FOR PERSONAL INJURY, DEATH OR PROPERTY DAMAGE, AND WHETHER SUCH CLAIMS ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE. FURTHER, IN NO EVENT SHALL THE INDEMNITY AND OTHER OBLIGATIONS OF SUN RIDGE, WHETHER PURSUANT TO THE EXPRESS PROVISIONS OF THIS AGREEMENT, IMPLIED, OR ARISING OTHERWISE, EXTEND TO OR COVER THE LOST BUSINESS OR PROFITS, OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY

PERSON OR ENTITY. THE INDEMNITY OBLIGATIONS OF SUN RIDGE HEREUNDER SHALL SURVIVE THE EXPIRATION, CANCELLATION OR TERMINATION OF THIS AGREEMENT.

b. Intellectual Property Indemnification

Contractor hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the Software it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement. Contractor warrants that the Software it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the Software provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should Software under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the Software under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the Software without infringement or (ii) replace or modify the services so that it becomes non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the Software under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the Software under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

10. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County, which consent shall not be unreasonably withheld, conditioned or delayed. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice. County shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to perform the obligations required by County under this Agreement without the prior written consent of Contractor, which consent shall not be unreasonably withheld, conditioned or delayed. Any such assignment or subcontract without Contractor's prior written

consent shall give Contractor the right to automatically and immediately terminate this Agreement without penalty or advance notice.

11. Payment of Permits/Licenses

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement unless and until Contractor cures such failure.

12. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

- Comprehensive General Liability... \$1,000,000
(Applies to all agreements)

- Motor Vehicle Liability Insurance... \$1,000,000
(To be checked if motor vehicle used in performing services)

- Professional Liability..... \$1,000,000
(To be checked if Contractor is a licensed professional)

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

13. **Compliance With Laws**

All deliverables to be provided by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

14. **Non-Discrimination and Other Requirements**

a. **General Non-discrimination**

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. **Equal Employment Opportunity**

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c. **Section 504 of the Rehabilitation Act of 1973**

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:

- Contractor complies with Chapter 2.84 by offering the same benefits to its employees with spouses and its employees with domestic partners.
- Contractor complies with Chapter 2.84 by offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Contractor's cost of providing the benefit to an employee with a spouse.
- Contractor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.
- Contractor does not comply with Chapter 2.84, and a waiver must be sought.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

- No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.
- Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or Section 14, above. Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

15. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed Section 3, above, is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

16. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

17. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition,

provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

18. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

19. Final Acceptance

Final Acceptance Testing Procedure. For thirty (30) days from the beginning of County's use of any of the licensed Software in a live environment ("Operational Use") or forty (40) days after the completion of installation and training by Contractor, whichever comes first (the "Initial Test Period"), County shall test the system for defects and anomalies. County shall accept or reject the Software, as follows:

a. Initial Test Period

During the Initial Test Period County shall assess the performance of the Software. If at the end of the Initial Test Period County determines that the Software is performing to its satisfaction then written Notice of Final Acceptance ("Final Acceptance") shall be given to the Contractor and, upon receipt of a valid invoice, the final payment shall be processed by County. However, if during this period it is determined that the Software is not working satisfactorily, then County will identify problems in writing to Contractor no later than the last day of the Initial Test Period and work with Contractor for the next thirty (30) days to resolve the problems ("Second Test Period").

b. Second Test Period

During the Second Test Period, County will again test the performance of the Software. At the end of the Second Test Period one of the following shall occur:

- i. If County determines that the Software is performing to its satisfaction it shall immediately provide written Final Acceptance of the Software and, upon receipt of a valid invoice, shall process and pay the Final Acceptance milestone payment. Any remaining issues with the Software shall be covered as part of the original cost of the system and handled as maintenance items under the Software Support Services Agreement (Exhibit A, Section 4).
- ii. If County decides to not accept the Software then it must so notify Contractor within five (5) days of the end of the Second Test Period. In the event County so notifies Contractor that County will not accept the Software, this Agreement shall be terminated and all payments already made by County to Contractor, less the cost of project management, installation, and training services provided up to the date of termination, shall be returned within thirty (30) days to County. The terms of section 4 above regarding the cessation of County's right to use the Software upon termination of this Agreement shall apply to a termination for non-acceptance hereunder.

However, if County fails to provide written Final Acceptance or its decision to not accept the Software within five (5) calendar days of the end of the Second Test Period, then the Software shall be considered accepted and County shall proceed as described in subsection 2.a above.

20. **Software License**

Subject to the terms, conditions, limitations and restrictions set forth in this Agreement, Contractor grants to the County a nonexclusive and non-transferable license, effective upon the County's Final Acceptance of the Software pursuant to Section 19 above, to use the Software in connection with the County's normal and customary daily operations substantially as they exist as of the date of commencement of the Term as described below (the "License"). The County 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.

- a. The following additional terms, conditions and limitations apply to the License:
 - i. The County may use the Software on all computers in the County's agency and in any other agencies explicitly agreed to in writing by Contractor;
 - ii. The County may make a copy of the Software for backup or modification purposes only in support of the County's authorized use of the Software hereunder as Contractor has expressly authorized; and
 - iii. No one using the Software, and no one for whose benefit the Software is being used, shall sublicense, resell, distribute, market, provide or otherwise make available the Software or any part or copies thereof to any third party.
 - iv. The County shall not transfer, use, or export the Software in violation of any applicable laws, rules, or regulations of any government or governmental agency.
 - v. The County shall not use the Software to disrupt, disable, or otherwise harm the operations, software, hardware, equipment, and/or systems of a business, institution, or other entity, including, without limitation, exposing the business, institution, or other entity to any computer virus, trojan horse, or other harmful, disruptive, or unauthorized component.
 - vi. The County shall not embed the Software in any third-party applications, unless expressly permitted under this Agreement or otherwise authorized in writing in advance by an authorized officer of Contractor.
 - vii. The License granted under this 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 the County nor anyone using the Software pursuant to this License will modify, change, merge, adapt, translate, reverse engineer, decompile, disassemble or prepare derivative works based upon the Software.
 - viii. The County acknowledges that the Software and the Documentation constitute trade secrets of Contractor. The County agrees to maintain the confidentiality of the Software and the Documentation, and shall take commercially reasonable steps to preserve that confidentiality pursuant to this Agreement.

- b. The term of the License shall commence upon Final Acceptance of the Software by the County, and shall continue until the License is terminated as provided below.
 - i. Contractor may immediately terminate the License in the event of any failure by the County to comply with the terms or conditions of this Agreement by giving written notice of such termination to the County. In the event the County has leased the Software from Contractor, the License will terminate automatically upon termination of the lease. Upon such termination, the County shall immediately cease further use of the Software and will cause all copies of the Software to be destroyed or returned to Contractor.
 - ii. The County may terminate the License at any time by giving written notice thereof to Contractor and by destroying or returning to Contractor all copies of the Software. The County acknowledges and agrees that any election by the County to terminate the License hereunder will not entitle the County to any refund of amounts paid or compensation of any kind from Contractor.
 - iii. Upon any termination or expiration of the License, an authorized representative of the County shall certify in writing to Contractor that all copies of the Software and the Documentation which were the subject of the License have either been destroyed or returned to Contractor as required above.
- c. Contractor may, at its option, release updates to or new versions of the Software. If the County 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 Agreement.
- d. Except as expressly provided in this Agreement, Contractor retains all intellectual property rights and other rights to the Software, Documentation (as defined above), and the source code for the Software.

21. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the facsimile number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt. Notices will be deemed given as of the date of confirmed receipt by facsimile or email as long as such receipt occurs not later than 5:00 p.m. on a business day. If the notice is received after 5:00 p.m. on a business day or on a weekend or nationally-recognized holiday, the notice will be deemed given on the next business day after such receipt.

In the case of County, to:

Name/Title: David Doan, Management Analyst III
 Address: County of San Mateo, 400 County Center, 3rd fl, Redwood City, CA 94063
 Telephone: (650)363-4670
 Facsimile: (650)363-4873
 Email: ddoan@smcgov.org

In the case of Contractor, to:

Name/Title: Anthony B. Richards, President,
Address: Sun Ridge Systems, Inc., PO Box 5071, El Dorado Hills, CA 95762
Telephone: 530-676-7128
Facsimile: 530-672-2385
Email: trichards@sunridgesystems.com

22. Electronic Signature

If both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County: If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Contractor: If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

* * *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

COUNTY OF SAN MATEO

By:

President, Board of Supervisors, San Mateo County

Date:

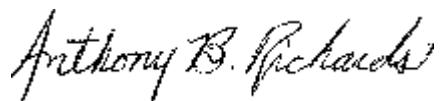
ATTEST:

By:

Clerk of Said Board

Sun Ridge Systems, Inc.

Contractor's Signature

Handwritten signature of Anthony B. Richards in cursive script.

Date: October 10, 2015

Exhibit A

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

1. DESCRIPTION OF DELIVERABLE PROVIDED BY THE CONTRACTOR.

1.1. Software:

- RIMS Records Management Software
- RIMS State Link Software
- RIMS Property Room Bar Coding Software
- RIMS Collaborate Data Sharing Software
- iRIMS Browser Access to RIMS Software
- RIMS Officer Training Software
- RIMS Officer Field Reporting Software

1.2. Hardware:

- Worth Data Bar Code Scanner (1 unit) *(Worth Data is the manufacturer of the bar coding equipment. This contract includes one base station and wireless scanning terminal. County must contact Worth Data (the original equipment manufacturer) if County is interested in purchasing maintenance for this device.)*

1.3. Third-Party Software:

- No third-party software is provided by Contractor.

2. DESCRIPTION OF SERVICES PROVIDED BY THE CONTRACTOR.

2.1. Installation.

2.1.1. Contractor is responsible for the following installation services:

- Installation of all RIMS Applications (listed above) on County supplied servers
- Confirm proper setup of County's SQL database
- Set up Live and Training RIMS databases
- Provide phone assistance to County staff for the installation of the Worth Data Bar Code hardware
- Installation of an initial workstation client
- Installation of an initial Officer Field Reporting client

2.2. Integration/Testing.

2.2.1. Contractor is responsible for the following Integration and Testing services:

- Testing of CLETS Interface
- Integration/Testing of the Bar Code hardware

2.3. Installation and Training.

2.3.1. All training is onsite at a County provided location. All training is "end user

training” unless specified otherwise. Training days are contiguous. Contractor will provide a training plan prior to the beginning of the Officer Training sessions.

- Initial Setup (4 hours via phone)
- Business Process Review 2Days
- Officer Training (3 sessions, 1 day/session) 3Days
- Records Training (1 session) 1Day
- Admin Follow-Up Training (1 session) 1Day
- Go Live Support (2 staff for 1 day each) 2Days

2.4 Project Management.

2.4.1 Carol Jackson is assigned as Contractor’s Project Manager. She will be the point of contact for the coordination of all project activities.

2.5 Cutover Support.

2.5.1 Two Contractor staff members will be on site for one (1) day each during the initial cutover to RIMS to ensure that it goes smoothly and to address any problems.

2.6 Documentation.

2.6.1. Documentation is installed on the server at the time of Software installation. County is free to distribute electronic and hardcopy versions of the documentation as necessary.

3. RESPONSIBILITIES OF COUNTY.

- 3.1. Assign a Project Manager for single point of contact and coordination for Contractor Project Manager.
- 3.2. Coordinate and schedule resources of the San Mateo County District Attorney’s Office and IT staff
- 3.3. Provide all requisite hardware meeting at least the minimal hardware requirements specified by Contractor (with the exception of bar code scanner hardware)
- 3.4. Provide system and other third party software including SQL, Terminal Services, Windows Server 2003/2008/2012 (64 bit)
- 3.5. Provide data communications infrastructure (network, internet, intranet)
- 3.6. Coordinate testing of County Switch
- 3.7. Complete, submit and gain approval of updated DOJ CLETS application
- 3.8. Assign RIMS System Administrators

- 3.9. Ensure all user maintained tables are completed prior to the start of training
- 3.10. Provide training facilities, workstations and ensure access to RIMS training database from the training location
- 3.11. Schedule County staff into requisite classes
- 3.12. Assign senior personnel to classes to present any changes in business processes to line staff
- 3.13. Assume all costs for potential County staff overtime required to complete the project per agreed to project schedule

4. SOFTWARE SUPPORT SERVICES. *(For purposes of this section, Contractor is referred to as "SRS" and County is referred to as "Licensee.")*

- 4.1. SRS will provide software support, maintenance, and enhancement services ("Support Services") for the RIMS public safety software ("Software") for a period of one year from the Completion of the Project, as defined in the Agreement (the "Initial Support Period").
- 4.2. Coverage Hours. SRS will provide a toll free phone number for Licensee to call whenever a covered problem occurs. Normal service hours will be Monday-Friday, 8AM-5PM PST, common holidays excepted. However, for critical problems preventing basic system operation service will be available 24 hours, 7 days a week, holidays included.
- 4.3. SRS Response to reported problems. SRS agrees to provide service and assistance as expeditiously as possible as follows:
 - 4.3.1. Most problems will be resolved with the initial phone call.
 - 4.3.2. For problems that cannot be immediately resolved, SRS will work to resolve the problem based on the severity of the problem and the urgency reported by Licensee.
 - For problems in which the Licensee's system is completely inoperable due to a SRS Software problem, SRS personnel will work with Licensee continuously until the situation is resolved.
 - For problems that have a lesser though continuing impact on operations of Licensee, SRS will endeavor to provide a solution or work around within 72 hours.
 - For lower priority problems SRS may, at its discretion, either issue a near term "fix release" of the product or include the fix in the next scheduled product release.
- 4.4. Licensee equipment and software responsibilities. Licensee agrees to have a means available for SRS to remotely connect to Licensee's system when a problem is reported. The software product used by SRS is Bomgar Remote Support Software, chosen because it provides superior security and does so over an ordinary internet connection via a Sun Ridge server that hosts a security hardware device.

Sun Ridge will use this line only with the Licensee's permission.

SRS will use this link to connect to Licensee's system to examine data files, update and repair them when necessary, and download maintenance-related logs automatically maintained by the RIMS Software. SRS will also use this line to upload fixes to problems to Licensee's system when appropriate.

- 4.5 Provision of Software updates. SRS will provide at no additional cost all new enhanced and updated versions of Software licensed to Licensee. This Software will be provided with detailed installation instructions for installation by Licensee. If desired, Licensee may retain SRS to perform any installation at additional cost to be determined on a per case basis. Updates are distributed via download from the SRS ftp web site. SRS will not be obligated to provide service for release versions that are more than two annual release versions older than the current release.
- 4.6 Renewal of Support Services. After the Initial Support Period, the obligation of SRS to provide Support Services may be renewed annually for additional one-year terms (each a "Renewal Support Period") in accordance with this Section 4.6. The Initial Support Period or Renewal Support Period, as the case may be, may be renewed at the election of Licensee for an additional one-year period upon payment by Licensee of the renewal fee for Support Services for the ensuing year as invoiced by SRS. SRS will provide a written invoice to Licensee prior to the end of the then-current one-year period for the Support Services, which invoice will include the annual fee to be paid by Licensee if Licensee wishes to be provided with Support Services for the ensuing year. The annual fee for renewal of Support Services under this Agreement will be determined by SRS in its sole and complete discretion. Payment by Licensee for the ensuing year is due on or before the first day of the pending Renewal Support Period. Non-payment of the invoice for the ensuing year of Support Services within forty-five (45) days of the commencement of the next possible Renewal Support Period shall be cause for terminating the provision of Support Services by SRS at any time by giving written notice thereof to Licensee.
- 4.7 Limitations. SRS agrees to provide support only for public safety application Software provided by SRS. Other software used by Licensee (word processing, spreadsheet, etc.) is not included in this Agreement. PC and network operating system software and Microsoft SQL Server database system software is similarly not included, although SRS may assist Licensee in isolating problems to this software. Also specifically excluded is responsibility for administration, support, or maintenance of your server, computer network, operating systems, or database.

Licensee may purchase support services outside the limitations of this agreement at the then current SRS hourly labor rate.

This Agreement does not include equipment maintenance or assistance in diagnosing hardware problems including but not limited to PCs, printers, scanners and other computer peripheral devices with the exception that SRS will assist Licensee in determining whether a problem is RIMS application Software in nature.

Exhibit B

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

1. RATES.

Item	Price
RIMS Records Management Software	\$33,000
RIMS State Link Software (CLETS)	\$5,000
RIMS Property Room Bar Coding Software	\$5,000
RIMS Collaborate Data Sharing Software	\$4,000
iRIMS Browser Access to RIMS Software	\$4,500
RIMS Officer Training Software	\$2,000
RIMS Field Reporting Software	\$6,000
Worth Data Bar Coding Equipment	\$1,700
Installation and Training	\$35,176
First Year Support and Updates	\$8,925
California Sales Tax	\$153
TOTAL CONTRACT AMOUNT	\$105,454

2. PAYMENTS.

2.1 County will pay Contractor the above Contract Amount according to the following payment schedule:

- 1st Payment30% of year one dues or \$31,636 upon full execution of this Agreement.
- 2nd Payment.....70% of year one dues or \$73,818 upon County's Final Acceptance as defined in Section 19.