

TRACY CITY COUNCIL

REGULAR MEETING AGENDA

Tuesday, March 6, 2012, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

Americans With Disabilities Act - The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6000) 24 hours prior to the meeting.

Addressing the Council on Items on the Agenda - The Brown act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. Each citizen will be allowed a maximum of five minutes for input or testimony. At the Mayor's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

Consent Calendar - All items listed on the Consent Calendar are considered routine and/or consistent with previous Council direction. A motion and roll call vote may enact the entire Consent Calendar. No separate discussion of Consent Calendar items will occur unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items *not* on the posted agenda. Members of the public addressing the Council should state their names and addresses for the record, and for contact information. The City Council's Procedures for the Conduct of Public Meetings provide that "Items from the Audience" following the Consent Calendar will be limited to 15 minutes. "Items from the Audience" listed near the end of the agenda will not have a maximum time limit. Each member of the public will be allowed a maximum of five minutes for public input or testimony. However, a maximum time limit of less than five minutes for public input or testimony may be set for "Items from the Audience" depending upon the number of members of the public wishing to provide public input or testimony. The five minute maximum time limit for each member of the public applies to all "Items from the Audience." Any item *not* on the agenda, brought up by a member of the public shall automatically be referred to staff. In accordance with Council policy, if staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

Presentations to Council - Persons who wish to make presentations which may exceed the time limits are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Requests for letters to be read into the record will be granted only upon approval of the majority of the Council. Power Point (or similar) presentations need to be provided to the City Clerk's office at least 24 hours prior to the meeting. All presentations must comply with the applicable time limits. Prior to the presentation, a hard copy of the Power Point (or similar) presentation will be provided to the City Clerk's office for inclusion in the record of the meeting and copies shall be provided to the Council. Failure to comply will result in the presentation being rejected. Any materials distributed to a majority of the Council regarding an item on the agenda shall be made available for public inspection at the City Clerk's office (address above) during regular business hours.

Notice - A 90 day limit is set by law for filing challenges in the Superior Court to certain City administrative decisions and orders when those decisions or orders require: (1) a hearing by law, (2) the receipt of evidence, and (3) the exercise of discretion. The 90 day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge a City Council action in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

Full copies of the agenda are available at City Hall, 333 Civic Center Plaza, the Tracy Public Library, 20 East Eaton Avenue, and on the City's website www.ci.tracy.ca.us

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENTATIONS – Employee of the Month

Police and Fire Officers, Volunteer and Staff Employee of the Year

DARE Graduates

1. CONSENT CALENDAR

- A. Acceptance of the Pond Removal – Greenleaf #1 Project - CIP 76058, Completed by Top Grade Construction Inc., of Livermore, California, and Authorization for the City Clerk to File the Notice of Completion
- B. Approve a 30-Foot Wide Public Utility Easement (PUE) Within the City Owned Parcel Located on the West Side of Tracy Boulevard North of Larch Road, for the Installation, Operation and Maintenance of Overhead Utility Lines and Poles on Tracy Boulevard along the Frontage of the Holly Sugar Sports Complex, Authorize the Mayor to Execute the Grant of Easement, and Further Authorize the City Clerk to File the Easement Document with the San Joaquin County Recorder
- C. Approve Amendment 3 to the Professional Services Agreement with Schack & Company, Inc., of Tracy, California, to Provide Additional Services for the Corral Hollow Road Widening Project – CIP 73014, from Grant Line Road to the West Valley Mall Entry
- D. Authorization for an Appropriation of \$100,000 for the Acquisition of Alternative Fuel Vehicles Provided through a \$100,000 Grant from the San Joaquin Valley Air Pollution Control District

2. ITEMS FROM THE AUDIENCE

3. PUBLIC HEARING TO CONSIDER THE ALLOCATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS FOR FISCAL YEAR 2012-2013

4. CITY COUNCIL DIRECTION RELATED TO AMENDING A DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES, APPLICATION DA11-0002

5. AUTHORIZE A PROFESSIONAL SERVICES AGREEMENT WITH SPILLMAN TECHNOLOGIES, INC. OF SALT LAKE CITY, UTAH FOR AN AMOUNT (INCLUDING ALL OPTIONS) NOT TO EXCEED \$2,736,898 TO PROVIDE THE POLICE DEPARTMENT (TPD) WITH A FULLY INTEGRATED COMPUTER AIDED DISPATCH (CAD)/RECORDS MANAGEMENT (RMS) SYSTEM, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

6. AUTHORIZATION TO ENTER INTO NEGOTIATIONS WITH MARY ANN BRIGHAM FOR POTENTIAL LEASE OF A CITY-OWNED BUILDING AT 729/741 CENTRAL AVENUE FOR A BREWPUB/RESTAURANT

7. APPOINT TWO APPLICANTS TO THE PLANNING COMMISSION
8. ITEMS FROM THE AUDIENCE
9. COUNCIL ITEMS
 - A. Consider an Item for Discussion on a Future City Council Agenda Related to Reviewing Impact Fees Per Acre on a Proportional Use Basis
10. ADJOURNMENT

AGENDA ITEM 1.A

REQUEST

ACCEPTANCE OF THE POND REMOVAL – GREENLEAF #1 PROJECT - CIP 76058, COMPLETED BY TOP GRADE CONSTRUCTION INC., OF LIVERMORE, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

The contractor has completed construction of the Pond Removal - Greenleaf # 1, at the existing detention basin pond located at 1800 West Grant Line Road, in accordance with plans, specifications and contract documents. This location is the future site for Fire Station 96. Project costs are within the available budget. Staff recommends City Council accept the project to enable the City to release the contractor's bonds and retention

DISCUSSION

On August 2, 2011, City Council awarded a contract to Top Grade Construction Company of Livermore, California, for the Pond Removal - Greenleaf # 1 Project, in the amount of \$265,765.

The scope of work involved removal of the existing detention pond by filling the pond with imported fill and compacting it in accordance with plans and specifications. The work also involved connecting the Greenleaf storm drainage directly to the Grant Line Road Storm line after filling the detention pond. This detention pond is proposed as a future site for Fire Station 96.

One change order was issued for this project in the amount of \$10,030. This was necessary to install two field inlets, provide a manhole connection, additional potholes to locate underground services and for preparing the annual report for Storm Water Pollution Prevention Plan on behalf of the City.

Status of budget and project costs is as follows:

A. Construction Contract Amount	\$265,765
B. Change Orders	\$ 10,030
C. Design	\$ 24,700
D Construction management, inspection, Testing & miscellaneous expenses (Estimated)	\$ 13,000
D. Estimated Special Geotechnical Inspection	\$ 14,000
E. Estimated Citywide Project Management Charges	<u>\$ 19,500</u>

Total Project Construction Costs	\$346,995
. Budgeted Amount	\$350,000

The project has been completed, on schedule, per plans, specifications, and City of Tracy standards. Final project costs will include construction management, inspection, and testing. Total project costs have not yet been finalized but are estimated to be within the overall available budget for the Pond Removal – Greenleaf # 1 Project.

FISCAL IMPACT

CIP 76058 is an approved Capital Improvement Projects with sufficient funding and there will be no fiscal impact to the General Fund. All remaining funds will be transferred back into the City's Storm Water Enterprise Fund.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's seven strategic plans directly

RECOMMENDATION

That City Council, by resolution, accept the Pond Removal - Greenleaf # 1 Project - CIP 76058, as completed by Top Grade Construction Company Inc., of Livermore, California, in accordance with the project plans and specifications, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

Approved by: Andrew Malik, Development Services Director
Leon Churchill, Jr., City Manager

RESOLUTION 2012-_____

ACCEPTING THE POND REMOVAL – GREENLEAF #1 PROJECT - CIP 76058, COMPLETED BY TOP GRADE CONSTRUCTION INC., OF LIVERMORE, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On August 2, 2011, City Council awarded a contract to Top Grade Construction Company of Livermore, California, for the Pond Removal - Greenleaf # 1 Project, and

WHEREAS, One change order was issued for this project in the amount of \$10,030, and

WHEREAS, Status of budget and project costs is as follows:

Construction Contract Amount	\$265,765
Change Orders	\$ 10,030
Design	\$ 24,700
Construction management, inspection, Testing & miscellaneous expenses (Estimated)	\$ 13,000
Estimated Special Geotechnical Inspection	\$ 14,000
Estimated Citywide Project Management Charges	<u>\$ 19,500</u>
 Total Project Construction Costs	 \$346,995

WHEREAS, The project has been completed, on schedule, per plans, specifications, and City of Tracy standards, and

WHEREAS, CIP 76058 is an approved Capital Improvement Projects with sufficient funding and there will be no fiscal impact to the General Fund. All remaining funds will be transferred back into the City’s Storm Water Enterprise Fund;

NOW, THEREFORE, BE IT RESOLVED that City Council accept the Pond Removal - Greenleaf # 1 Project - CIP 76058, as completed by Top Grade Construction Company Inc., of Livermore, California, in accordance with the project plans and specifications, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 6th day of March, 2012 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

MAYOR

ATTEST

CITY CLERK

AGENDA ITEM 1.B

REQUEST

APPROVE A 30-FOOT WIDE PUBLIC UTILITY EASEMENT (PUE) WITHIN THE CITY OWNED PARCEL LOCATED ON THE WEST SIDE OF TRACY BOULEVARD NORTH OF LARCH ROAD, FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF OVERHEAD UTILITY LINES AND POLES ON TRACY BOULEVARD ALONG THE FRONTAGE OF THE HOLLY SUGAR SPORTS COMPLEX, AUTHORIZE THE MAYOR TO EXECUTE THE GRANT OF EASEMENT, AND FURTHER AUTHORIZE THE CITY CLERK TO FILE THE EASEMENT DOCUMENT WITH THE SAN JOAQUIN COUNTY RECORDER

EXECUTIVE SUMMARY

This is a request to approve a 30-foot wide Public Utility Easement (PUE) along the west side of Tracy Boulevard, north of Larch Road along the Holly Sugar Sports Complex. The PUE will provide access rights to PG&E and other utility owners such as AT&T, Comcast, etc., for the installation, use, operation, repair and maintenance of public utilities such as electric, cable TV, and telephone. Approval of the PUE will facilitate the relocation of the electrical lines and utility poles by PG&E and other utilities to clear Tracy Boulevard for widening.

DISCUSSION

The roadway widening on Tracy Boulevard to serve the Holly Sugar Sports Complex will require the relocation of existing utility poles and overhead lines that are located along the west side of Tracy Boulevard in front of the sports park. A 30-foot wide utility easement is necessary to be granted by the City, to allow the installation, use, repair and maintenance of the overhead utility lines and poles. The location of the 30-foot wide PUE is shown on Attachment A.

Staff has reviewed the legal description and location map that describes the easement area for completeness and technical accuracy, and recommends approval of the 30-foot wide PUE.

FISCAL IMPACT

There will be no impact to the General Fund. PG&E will be responsible for the cost of relocating the utility poles on Tracy Boulevard.

STRATEGIC PLAN

This agenda item is consistent with the Economic Development Strategy approved by the Council to ensure physical infrastructure necessary for development.

RECOMMENDATION

That City Council, by resolution, approve the Grant of Easement for the purpose of installation, operation and maintenance of public utilities on Tracy Boulevard fronting the Holly Sugar Sports Park, and authorize the City Mayor to sign the Grant of Easement, and further authorize the City Clerk to file the easement document for recordation with the San Joaquin County Recorder.

Prepared by: Cris Mina, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

Approved by: Andrew Malik, Development Services Director
Leon Churchill Jr., City Manager

Attachment - Location Map

EXHIBIT "A"

Legal Description for Public Utility Easement

All the certain real property situate in the County of San Joaquin and State of California being a portion of the Lands of the City of Tracy as described and delineated on that certain Record of Survey of the Exterior Boundary of the Lands of Holly Sugar Corporation filed for record on July 8, 1998 at Book 34 of Surveys at Page 37, San Joaquin County Records described as follows:

Being a strip of land thirty foot (30') in width for Public Utility purposes over, under and across the following described parcel of land;

Commencing at a found City of Tracy Brass Disk in monument box marking the intersection of the centerline of Tracy Boulevard and the centerline of Larch Road as shown and so delineated on the above-mentioned Record of Survey;

Thence along the centerline of Tracy Boulevard, North $00^{\circ}22'38''$ East for a distance of 1065.82 feet;

Thence along the southerly line of the lands of the City of Tracy, North $89^{\circ}17'22''$ West for a distance of 50.00 feet to the Point of Beginning;

Thence continuing along said southerly line, North $89^{\circ}17'22''$ West for a distance of 30.00 feet;

Thence leaving said southerly line along a line parallel with and eighty (80') feet westerly, measured at right angles from the centerline of Tracy Boulevard, North $00^{\circ}22'38''$ East for a distance of 2,234.16 feet;

Thence South $89^{\circ}31'14''$ East for a distance of 30.00 feet;

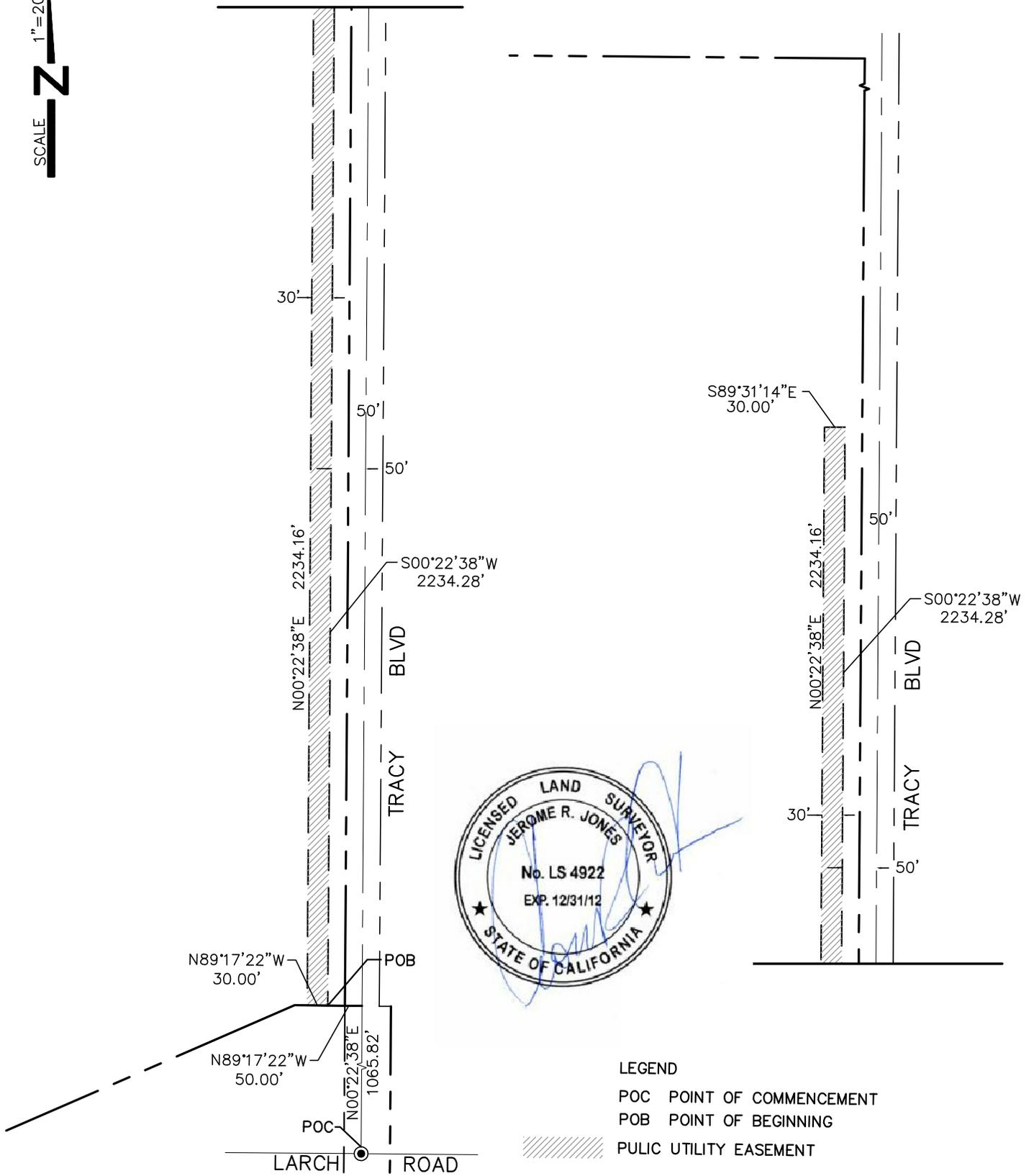
Thence along a line parallel with and fifty (50') feet westerly, measured at right angles from the centerline of Tracy Boulevard, South $00^{\circ}22'38''$ West for a distance of 2,234.28 feet to the Point of Beginning;

Containing a total area of 67,027 square feet or 1.54 acres more or less.

The Basis of Bearing for this description is the California Coordinates System of 1983, Zone 3 as determined from the City of Tracy's Geodetic Control Network shown on the Record of Survey filed in Book 36 of Surveys at Page 118, San Joaquin County Records.



SCALE 1"=200'



LEGEND

- POC POINT OF COMMENCEMENT
- POB POINT OF BEGINNING
- PUBLIC UTILITY EASEMENT

NOLTE

BEYOND ENGINEERING

2025 GATEWAY PLACE, SUITE 156
408.392.7200 TEL. 408.392.0101 FAX

SAN JOSE, CA 95110
WWW.NOLTE.COM

**PLAT TO ACCOMPANY
LEGAL DESCRIPTION**

SAN JOAQUIN

CALIFORNIA

PREPARED FOR: CITY OF TRACY

DATE SUBMITTED: 2/23/2012

SHEET NUMBER

1

OF 1 SHEETS

JOB NUMBER
SJB035000

RESOLUTION 2012-_____

APPROVING A 30-FOOT WIDE PUBLIC UTILITY EASEMENT (PUE) WITHIN THE CITY OWNED PARCEL LOCATED ON THE WEST SIDE OF TRACY BOULEVARD NORTH OF LARCH ROAD, FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF OVERHEAD UTILITY LINES AND POLES ON TRACY BOULEVARD ALONG THE FRONTAGE OF THE HOLLY SUGAR SPORTS COMPLEX, AUTHORIZING THE MAYOR TO EXECUTE THE GRANT OF EASEMENT, AND FURTHER AUTHORIZING THE CITY CLERK TO FILE THE EASEMENT DOCUMENT WITH THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, The roadway widening on Tracy Boulevard to serve the Holly Sugar Sports Complex will require the relocation of existing utility poles and overhead lines that are located along the west side of Tracy Boulevard in front of the sports park, and

WHEREAS, A 30-foot wide utility easement is necessary to be granted by the City, to allow the installation, use, repair and maintenance of the overhead utility lines and pole, and

WHEREAS, There will be no impact to the General Fund. PG&E will be responsible for the cost of relocating the utility poles on Tracy Boulevard;

NOW, THEREFORE, BE IT RESOLVED that City Council approves the Grant of Easement for the purpose of installation, operation and maintenance of public utilities on Tracy Boulevard fronting the Holly Sugar Sports Park, authorizes the City Mayor to sign the Grant of Easement, and further authorizes the City Clerk to file the easement document for recordation with the San Joaquin County Recorder.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 6th day of March, 2012 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST

CITY CLERK

March 6, 2012

AGENDA ITEM 1.C

REQUEST

APPROVE AMENDMENT 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH SCHACK & COMPANY, INC., OF TRACY, CALIFORNIA, TO PROVIDE ADDITIONAL SERVICES FOR THE CORRAL HOLLOW ROAD WIDENING PROJECT – CIP 73014, FROM GRANT LINE ROAD TO THE WEST VALLEY MALL ENTRY

EXECUTIVE SUMMARY

Approval of Amendment 3 to the Professional Services Agreement with Schack & Company, Inc., will facilitate completion of the design for the Corral Hollow Road Widening Project from Grant Line Road to the West Valley Mall entry in a timely manner and will avoid compromising Federal and State funds allocated for this project.

DISCUSSION

On February 17, 2009, City Council approved a Professional Services Agreement (PSA) with Schack & Company (Consultant) to provide services for preparation of design, improvement plans, specifications and construction documents for the Widening of Corral Hollow Road from Grant Line Road to the West Valley Mall Entry – CIP 73014, for a not to exceed amount of \$402,832. Construction of this project also involves acquisition of rights of way from adjoining properties to widen the street. The total cost of this project is estimated at \$5.12 million and the project has received approval for federal funding in the amount of \$900,000 from the Regional Surface Transportation Program (RSTP).

The acquisition of rights of ways and environmental studies have been completed and approved by Caltrans and the project design is 98% complete. Staff has secured authorization for construction from the California Department of Transportation (CALTRANS). Since construction of the Kavanagh Road extension west of Corral Hollow Road and modifications to the north east and north west corners of Grant Line Road and Corral Hollow Road related to the Winco Development have been completed ahead of this project, it is necessary to modify the project construction documents and incorporate all necessary changes into the final project plans and specifications to reflect the actual existing condition. Completion of this work now will avoid delays and potential change orders during construction.

Staff requested a proposal and negotiated the cost of the above required services for a not to exceed amount of \$49,080.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's strategic plans.

FISCAL IMPACT

There is no fiscal impact to the General Fund as a result of this amendment to the PSA. The Corral Hollow Road Widening Project is an approved Capital Improvement Project with sufficient funding to complete the design and construction.

RECOMMENDATION

Staff recommends that City Council approve Amendment 3 to the Professional Services Agreement with Schack & Company, Inc., of Tracy, California, to provide additional services for the Corral Hollow Road Widening Project – CIP 73014, from Grant Line Road to the West Valley Mall Entry for a not to exceed amount of \$49,080, and authorize the Mayor to execute the agreement.

Prepared by: Zabih Zaca, Senior Civil Engineer

Reviewed by: Kul Sharma, City Engineer

Approved by: Andrew Malik, Development & Engineering Services Director
Leon Churchill, Jr., City Manager

**CITY OF TRACY
AMENDMENT NO. 3 TO
PROFESSIONAL SERVICES AGREEMENT
FOR DESIGN PROFESSIONALS**

**CORRAL HOLLOW ROAD WIDENING
GRANT LINE ROAD TO WEST VALLEY MALL ENTRY
CIP 73014 (FORMERLY CIP 7314)**

This Amendment No.3(hereinafter "Amendment") to the Professional Services Agreement for Design Professionals is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "City"), and Schack & Company, Inc. (hereinafter "CONSULTANT").

RECITALS

- A. The City and Consultant entered into a Professional Services Agreement for Design Professionals (hereinafter "Agreement") for the Corral Hollow Road Widening Grant Line Road to West Valley Mall Entry, CIP 7314 which was approved by the City Council on February 17, 2009, pursuant to Resolution No. 2009-029.
- B. On November 3, 2009, the City Council adopted Resolution No. 2009-203 approving Amendment No. 1 to the Agreement to provide for additional services.
- C. On May 3, 2011, the City Council adopted Resolution No. 2011-089 approving Amendment No. 2 to the Agreement to provide additional services
- D. At the request of the City and in compliance with the terms of the Agreement, on February 16, 2012, CONSULTANT submitted a proposal to perform the services as described in this Amendment 3 to the referenced Professional Service Agreement. After negotiations between CITY and CONSULTANT, the parties have reached an agreement for the performance of the services in accordance with the term set forth in this Amendment. On March 6 , 2012, City Council, by the Resolution 2012-_____ approved the subject Amendment.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. Incorporation By Reference.** This Amendment No. 3 hereby incorporates by reference all terms and conditions set forth in the Agreement and in Amendment No. 1 and No. 2 to the Agreement, unless specifically modified by this Amendment No. 3. All terms and conditions set forth in the Agreement which are not specifically modified by this Amendment shall remain in full force and effect.
- 2. Terms of Amendment.**
The following language shall be added to Paragraph 1 of the Agreement.

City of Tracy

**Amendment No. 3 to Professional Services Agreement for Design Professionals
Corral Hollow Road Widening Grant Line Road to West Valley Mall Entry,
CIP 73014 (formerly 9314)**

Page 2 of 5

CONSULTANT shall perform the tasks described in Exhibit "A" attached hereto and incorporated herein by reference.

The services shall be performed by, or under the direct supervision of, CONSULTANT's Authorized Representative: **Daniel Ray Schack**. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT replace any of the personnel listed in Exhibit "A," of the Agreement, nor shall CONSULTANT use any subcontractors or subconsultants, without the prior written consent of the CITY.

B. The following language shall be added to Section 5.1 of paragraph 5 of the Agreement.

In addition, for services performed by CONSULTANT in accordance with Amendment No. 3, CITY shall pay CONSULTANT on a time and expense basis, at the billing rates set forth in Exhibit "B," of the Agreement incorporated herein by reference. CONSULTANT's fee for this Amendment No. 3 is Not to Exceed FORTY NINE THOUSAND EIGHTY DOLLARS (\$49,080.00). CONSULTANT's billing rates shall cover all costs and expenses of every kind and nature for CONSULTANT's performance of this Amendment No. 3 to the Agreement, as described in Exhibit "A" attached hereto. No work shall be performed by CONSULTANT in excess of the Not-To-Exceed amount without the prior written approval of the CITY. Compensation for the extra services to be done by the CONSULTANT under this Amendment No. 3 shall be as described in Exhibit "A".

- 3. Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
- 4. Severability.** In the event any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in full force and effect.

INTENTIONALLY LEFT BLANK

City of Tracy
Amendment No. 3 to Professional Services Agreement for Design Professionals
Corral Hollow Road Widening Grant Line Road to West Valley Mall Entry,
CIP 73014 (formerly 9314)
Page 3 of 5

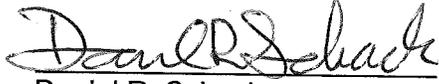
5. Signatures. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the Subdivider and the City. This Amendment shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

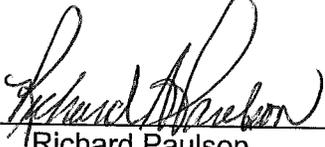
CITY OF TRACY

CONSULTANT

By: _____
Brent H. Ives
Title: Mayor
Date: _____

By: 
Daniel R. Schack
Title: President
Date: Feb. 28, 2012

Attest:
By: _____
Sandra Edwards
Title: City Clerk
Date: _____

By: 
Richard Paulson
Title: Vice President
Date: 02/28/12

Approved as to form

By: _____
Daniel G. Sodergren
Title: City Attorney
Date: _____

EXHIBIT "A"

AMENDMENT NO. 3

SCOPE OF SERVICES

A. COMPLETE REVISIONS TO APPROVED IMPROVEMENT PLANS (P.S.&E.)
TO REFLECT EXISTING CONDITIONS (AS-BUILT CONDITIONS)

ASSUMPTION:

The City Staff requested additional work to review the approved Project Plans, Specifications and Estimated Costs (P.S. & E.), and prepare and deliver revised improvement Plans, including revised Specifications and Cost Estimate (as required) to more accurately reflect the current site conditions (as-built conditions.)

1. Project review and coordination with City Staff
2. Review and coordination with PG&E and AT&T design engineers to acquire as-built drawings and confirm field (as-built) conditions
3. Field investigations to identify and confirm existing (as-built) conditions
4. On-going review and coordination with project Consultants
5. In coordination with Consultants, prepare revised Improvement Plans, including revised Specifications and Cost Estimates (as required) (P.S.&E.) to reflect current site conditions (as-built conditions), including:
 - a. Insertion of Improvement Plan Line Work
 - b. Send CADD backgrounds to Consultants
 - c. Coordinate found conflicts with City Staff
 - d. Plot 1st full size set for review and plan check
 - e. Plan review initial plots for revisions and conflicts
 - f. Modify CADD files and plans as per plan review comments
 - g. Plot 2nd set for final review, coordination and comments
 - h. Make final revision corrections
 - i. Complete review of Specifications and Cost Estimates

City of Tracy

**Amendment No. 3 to Professional Services Agreement for Design Professionals
Corral Hollow Road Widening Grant Line Road to West Valley Mall Entry,
CIP 73014 (formerly 9314)**

Page 5 of 5

- j. Complete revisions to Specifications and Cost Estimates (as required)
- k. Prepare and submit final, revised Plans, Specifications & Cost Estimates (P.S.E.) to City
- l. Deliverables: CD and (1) Hardcopy

TOTAL FEES FOR ABOVE SERVICES:

\$ 49,080.00

RESOLUTION 2012-_____

APPROVING AMENDMENT 3 TO THE PROFESSIONAL SERVICES AGREEMENT
WITH SCHACK & COMPANY, INC., OF TRACY, CALIFORNIA, TO PROVIDE
ADDITIONAL SERVICES FOR THE CORRAL HOLLOW ROAD WIDENING PROJECT
– CIP 73014, FROM GRANT LINE ROAD TO THE WEST VALLEY MALL ENTRY

WHEREAS, On February 17, 2009, City Council approved a Professional Services Agreement with Schack & Company to provide services for preparation of design, improvement plans, specifications and construction documents for the Widening of Corral Hollow Road from Grant Line Road to the West Valley Mall Entry – CIP 73014, for a not to exceed amount of \$402,832, and

WHEREAS, The total cost of this project is estimated at \$5.12 million and the project has received approval for federal funding in the amount of \$900,000 from the Regional Surface Transportation Program, and

WHEREAS, The acquisition of rights of ways and environmental studies have been completed and approved by Caltrans and the project design is 98% complete, and

WHEREAS, Since construction of the Kavanagh Road extension west of Corral Hollow Road and modifications to the north east and north west corners of Grant Line Road and Corral Hollow Road related to the Winco Development have been completed ahead of this project, it is necessary to modify the project construction documents, and

WHEREAS, Staff requested a proposal and negotiated the cost of the above required services for a not to exceed amount of \$49,080, and

WHEREAS, There is no fiscal impact to the General Fund as a result of this amendment to the PSA. The Corral Hollow Road Widening Project is an approved Capital Improvement Project with sufficient funding to complete the design and construction;

NOW, THEREFORE, BE IT RESOLVED that City Council approves Amendment 3 to the Professional Services Agreement with Schack & Company, Inc., of Tracy, California, to provide additional services for the Corral Hollow Road Widening Project – CIP 73014, from Grant Line Road to the West Valley Mall Entry for a not to exceed amount of \$49,080, and authorizes the Mayor to execute the agreement.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 6th day of February, 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST

CITY CLERK

March 6, 2012

AGENDA ITEM 1.D

REQUEST

AUTHORIZATION FOR AN APPROPRIATION OF \$100,000 FOR THE ACQUISITION OF ALTERNATIVE FUEL VEHICLES PROVIDED THROUGH A \$100,000 GRANT FROM THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

EXECUTIVE SUMMARY

Authorization is requested for the appropriation of \$100,000 in the Fiscal Year 2011-12 budget for the purchase of five alternative fuel vehicles. The San Joaquin Valley Air Pollution Control District (SJVAPCD) is providing a grant for \$100,000 for the acquisition of these vehicles.

DISCUSSION

At the City Council meeting held on October 8, 2011, City Council authorized staff to submit a grant application to the SJVAPCD in the amount of \$100,000 for the purchase of alternative fuel vehicles.

Staff has received notice from the SJVAPCD that the grant application for \$100,000 has been approved. This funding will be used in conjunction with existing budgeted funds of \$25,800 for the acquisition of five alternative fuel vehicles. These new vehicles will replace five existing sedans that are 13 to 16 years old.

STRATEGIC PLAN

This agenda item supports the Environmental Sustainability Strategy by providing low emission and fuel efficient vehicles.

FISCAL IMPACT

There is no fiscal impact to the General Fund for this appropriation. The \$100,000 appropriation will be funded through the SJVAPCD grant.

RECOMMENDATION

That the City Council, by resolution, authorize an appropriation of \$100,000 for the Fiscal Year 2011-12 budget for the acquisition of alternative fuel vehicles.

Prepared by: Kevin Tobeck, Director of Public Works

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

AUTHORIZATION FOR AN APPROPRIATION OF \$100,000 FOR THE ACQUISITION OF ALTERNATIVE FUEL VEHICLES PROVIDED THROUGH A \$100,000 GRANT FROM THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

WHEREAS, At the City Council meeting held on October 8, 2011, City Council authorized staff to submit a grant application to the SJVAPCD in the amount of \$100,000 for the purchase of alternative fuel vehicles, and

WHEREAS, Staff has received notice from the SJVAPCD that the grant application for \$100,000 has been approved, and

WHEREAS, These new vehicles will replace five existing vehicles that are 13 to 16 years old, and

WHEREAS, There is no fiscal impact to the General Fund for this appropriation. The \$100,000 appropriation will be funded through the SJVAPCD grant;

NOW, THEREFORE, BE IT RESOLVED That the City Council by resolution, authorize an appropriation of \$100,000 for the Fiscal Year 2011-12 budget for the acquisition of alternative fuel vehicles.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 6th day of March, 2012, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3

REQUEST

PUBLIC HEARING TO CONSIDER THE ALLOCATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS FOR FISCAL YEAR 2012-2013

EXECUTIVE SUMMARY

Consider and approve allocation of fiscal year 2012-2013 Community Development Block Grant and HOME funds.

BACKGROUND

Community Development Block Grant (CDBG) funds are allocated to cities and counties by the United States Department of Housing and Urban Development (HUD) for use in projects, programs, and services that demonstrate a benefit to low and moderate income individuals and families. The estimated amount allocated to the City of Tracy, as a sub recipient of San Joaquin County, is \$417,957 for FY 2012-2013.

A public notice announcing the availability of CDBG funds and inviting proposals appeared in the Tri-Valley Herald on December 10, 2011, and January 23, 2012. In addition, the application was made available on the City's website and a public meeting was held on December 15, 2011, at 9:00 a.m. at the City of Tracy's City Hall to answer questions about the application process. The deadline to submit proposals for CDBG funding was January 12, 2012, and extended to January 23, 2012.

CDBG regulations list several categories for proposal requests, and in some cases, specify spending limitations. The categories are: Public Facilities, Public Services, Economic Development, Planning, Housing and Administration. Public Services requests are limited to 15% of the total CDBG allocation; 15% of this year's estimated allocation is about \$62,693 but was reduced to \$52,465 since HUD allocated \$10,228 for Fair Housing Assistance. Planning and Administration is limited to 14% of the total CDBG allocation; 14% of this year's estimated allocation is approximately \$58,513.

Historically, the City has received the majority of the applications under the Public Services category. In the past, staff has reviewed the applications to ensure that they comply with the CDBG eligibility criteria and then equally distributed the 15% allocation among those qualified entities. The remainder of the City's allocation has been applied under the Public Facilities category. Historically, there have not been many applications under this category. If there has been an eligible application, the protocol has been to award the requested amount with the remainder of the money going toward an eligible City CIP project. For example, in 2009 \$310,579.90 of the Public Facilities money went toward improving the accessibility of intersections in downtown.

City Council desired to refine the CDBG application evaluation process so that those entities that best address the local needs of the Tracy community receive priority for funding. With such limited resources, equally distributing the dollars may not be the

most effective way of disbursing these funds. During fiscal year 2008-09, Council directed staff to revise the Community Development Block Grant process so that those qualified agencies that best address the local needs of the Tracy community receive priority for funding. On October 5, 2010, City Council approved the following local priorities: 1) economic development/job creation, 2) emergency food and shelter, 3) domestic violence services, and 4) senior/adult services. In order to encourage meaningful citizen involvement, public examination and appraisal of the process, as well as enhance program accountability, City Council approved staff's recommendation to have the Parks and Community Services Commission participate in the annual establishment of local needs priorities and evaluation of CDBG applications by means of a sub-committee.

At their regular meeting on October 7, 2010, the Parks and Community Services Commission approved staff's recommendation and established a three member sub-committee to assist City staff in evaluating and ranking CDBG applications and making funding allocation recommendations. The sub-committee is composed of three members of the Parks and Community Services Commission, selected annually by the Chair of the Parks and Community Services Commission.

DISCUSSION

The sub-committee conducted a Special Meeting on Tuesday, January 31, 2012, to evaluate, rank, and make funding allocation recommendations for the CDBG applications in the following categories: Public Services (i.e. programs), Public Facilities, and Planning and Administration. The sub-committee established a criterion requiring an applicant to score better than 60 points during the ranking process in order to receive any funding allocation.

Most agencies that submitted a proposal scored well in all areas. Ten applications were received under Public Services; two applications were received under Public Facilities. The maximum score that could be received under all categories was one hundred points.

As previously mentioned, a total of 10 applications were received under the Public Services category. Two applications scored below 60 points, which meant they were not recommended for funding. For the top eight applications, the recommended allocations were calculated as a percentage for each applicant based on their proportionate points divided by the total number of points generated among all remaining applicants. This percentage was then applied to the \$52,465 available under the Public Services category and served as the methodology determining the recommendation as to how much money each entity should receive. The recommended allocations are contained in Exhibit B of this report.

Two applications were received under the Public Facilities category; one submitted by the City of Tracy. One request came from The Boys and Girls Club to expand program space for their facility. The request was denied based on not meeting the local priorities approved by City Council on October 5, 2010: 1) economic development/job creation, 2) emergency food and shelter, 3) domestic violence services, and 4) senior/adult services.

Therefore, only one application was recommended for funding in the Public Facilities category. The recommended allocations are contained in Exhibit B of this report.

During Fiscal Year 2011-2012 CDBG grant allocations, City Council approved an allocation of \$67,869 for the Tracy City Center Association Landmark Sign in the Downtown Area; however, the project was rejected by HUD and therefore never moved forward. As such, \$67,869 can be added to the \$296,749 available for Public Facilities, which brings the total to \$364,618 for FY 2012-2013. These funds are not available to be applied to the Program Services Category.

Based on the applications received and the funding available, there will be an approximate amount of \$274,618 remaining, which includes the \$67,869 from the Tracy City Center Association Downtown Landmark Sign that was not used in FY 2011-2012. Staff would like to allocate those funds towards one of the local priorities; Economic Development and eligible uses for CDBG. The funds would be used toward supporting the operating and other eligible costs of the City of Tracy's Business Incubator, which is currently being developed. The funds would be used toward supporting the operating and other eligible costs to help facilitate Economic Development by providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises. These services would be provided by staff, contracted employees and/or consultant services all in support of the Small Business Incubator. Additional support received would be from developers by offering below market space for the Incubator.

On February 17, 2012, the Parks and Community Services Commission approved the sub-committee's recommendations for funding allocations for FY 2012-2013. The Commission recommended that the remaining funds be allocated to the Small Business Incubator program, subject to a condition that a complete application be submitted for review by the sub-committee, prior to use of funds.

The funds needed for the Small Business Incubator will likely be less than the \$274,618 remaining, which means there will still be remaining funds. Staff recommends that City Council earmark the entire amount for the Small Business Incubator as a placeholder at this time. Staff would then bring this item back to City Council for reallocation of any remaining funds prior to July 2012, once the sub-committee has reviewed the application for the Small Business Incubator.

Exhibit A is a summary of previous allocations. Exhibit B provides a list of proposals received by category including funding requests and recommended funding allocations. Exhibit C provides a brief description of each project.

As part of the CDBG program, the City will also receive \$64,127 in HOME funds. Since Redevelopment has gone away, staff recommends that the entire amount be allocated to the Down Payment Assistance Loan program for low income households administered for the City by San Joaquin County. Currently, there are no other identified eligible projects.

Each applicant that is awarded funds is required to sign an agreement with the City of Tracy to ensure that the funds are spent in the manner described in the applications as the applications were used as the basis for the awards. A form agreement (the "Form Agreement") is attached as Exhibit D.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's seven strategic plans.

FISCAL IMPACT

There will be no impact to the General Fund. The City of Tracy will receive an estimated \$417,957 in Community Development Block Grant funds in FY 2012-2013 (plus a carry-over of \$67,869 from FY 2011-2012). The City will also receive \$64,127 in HOME funds.

RECOMMENDATION

That City Council, by resolution, allocate \$485,823 (includes carryover amount of \$67,869) in estimated Community Development Block Grant funds and allocate \$64,127 in HOME funds to the Down Payment Loan program for FY 2012-2013 pursuant to the recommendations listed in the attached resolution and authorize and direct the Development and Engineering Services Director to execute the Form Agreement on behalf of the City.

Prepared by: Ana Lilia Reynoso, Housing Program Specialist
Scott Claar, Associate Planner

Reviewed by: Andrew Malik, Development and Engineering Services Director

Approved by: Leon Churchill, Jr., City Manager

Attachments:

Resolution
Exhibit A – Summary of Previous Year's Allocations
Exhibit B – Proposals Received, Including Funding Requests, and Recommended Allocations for FY 2012-2013
Exhibit C – Proposal Descriptions
Exhibit D – Form Agreement

NEIGHBORHOOD PRESERVATION										EXHIBIT A
CDBG FINANCIAL STATUS REPORT										
CITY OF TRACY ALLOCATIONS										
January 17, 2012										
DESCRIPTION	HUD AC.#	ORIGINAL ALLOCATION	TRANSFER ADD/(DEL)	ADJUSTED ALLOCATION	PROGRAM INCOME	UNLIQUIDATE ENCUMBRAN	AMOUNT EXPENDED	TOTAL % OBL.& EXP.	UNOBLIGATED BALANCE	
06-01	TRACY INTERFAITH FOOD CLOSET	1417	7,625.00		7,625.00		7,625.00	100.00%	0.00	
06-02	RECREATION SCHOLARSHIPS	1418	7,625.00		7,625.00		7,625.00	100.00%	0.00	
06-03	SECOND HARVEST FOOD BANK	1419	7,625.00		7,625.00		7,625.00	100.00%	0.00	
06-04	FAIR HOUSING	1367	0.00	12,100.00	12,100.00		12,100.00	100.00%	0.00	
06-05	SOUTH COUNTY CRISIS CENTER	1420	7,625.00		7,625.00		7,625.00	100.00%	0.00	
06-06	MCHENRY HOUSE	1421	7,625.00		7,625.00		7,625.00	100.00%	0.00	
06-07	WOMEN'S CENTER	1422	7,625.00		7,625.00		7,625.00	100.00%	0.00	
06-08	BOYS & GIRLS CLUB OUTREACH PROGRAM	1423	7,625.00		7,625.00		7,625.00	100.00%	0.00	
06-09	DOWNTOWN ALLEY RECONSTRUCTION	1424	346,252.00	610,153.15	956,405.15		925,927.52	96.81%	30,477.63	
06-10	GOOD SAMARITAN COMMUNITY SERVICES	1425	7,625.00		7,625.00		7,625.00	100.00%	0.00	
	2006 ALLOCATION		407,252.00	622,253.15	1,029,505.15	0.00	999,027.52	97.04%	30,477.63	
07-01	TRACY INTERFAITH MINISTRIES	1525	6,787.00		6,787.00		6,787.00	100.00%	0.00	
07-02	RECREATION SCHOLARSHIPS	1526	6,787.00		6,787.00		6,787.00	100.00%	0.00	
07-03	SECOND HARVEST FOOD BANK	1527	6,787.00		6,787.00		6,787.00	100.00%	0.00	
07-04	SAN JOAQUIN FAIR HOUSING	1479	12,227.00		12,227.00		12,227.00	100.00%	0.00	
07-05	SOUTH COUNTY CRISIS CENTER	1528	6,787.00		6,787.00		6,787.00	100.00%	0.00	
07-06	MCHENRY HOUSE	1529	6,787.00		6,787.00		6,787.00	100.00%	0.00	
07-07	WOMEN'S CENTER	1530	6,787.00	487.07	7,274.07		7,274.07	100.00%	0.00	
07-08	BOYS & GIRLS CLUB OUTREACH PROGRAM	1531	6,787.00		6,787.00		6,787.00	100.00%	0.00	
07-09	DOWNTOWN STREET IMPROVEMENTS	1532	333,946.00	0.20	333,946.20		333,946.20	100.00%	0.00	
07-10	GOOD SAMARITAN COMMUNITY SERVICES	1533	6,787.00		6,787.00		6,787.00	100.00%	0.00	
07-11	VBR FOSTER FAMILY AGENCY	1534	6,787.00		6,787.00		6,787.00	100.00%	0.00	
	TRACY ADMINISTRATION	1707				0.00				
	2007 ALLOCATION		407,256.00	487.27	407,743.27	0.00	407,743.27	11.00	0.00	
08-01	TRACY INTERFAITH MINISTRIES FOOD CLOS	1649	7,245.00		7,245.00		7,245.00	100.00%	0.00	
08-02	PARKS & RECREATION SCHOLARSHIPS	1650	7,245.00		7,245.00		7,245.00	100.00%	0.00	
08-03	SECOND HARVEST FOOD BANK	1651	7,245.00		7,245.00		7,245.00	100.00%	0.00	
08-04	SAN JOAQUIN FAIR HOUSING	1652	12,788.00		12,788.00		12,788.00	100.00%	0.00	
08-05	STOCKTON EMERGENCY FB REHAB	1653	1,540.00		1,540.00		1,540.00	100.00%	0.00	
08-06	STOCKTON EMERGENCY FB NUTRITION ON	1654	1,000.00	-1,000.00	0.00			#DIV/0!	0.00	
08-07	WOMEN'S CENTER	1655	7,245.00	(487.07)	6,757.93		6,757.93	100.00%	0.00	
08-08	BOYS & GIRLS CLUB TRACY OUTREACH	1656	7,245.00		7,245.00		7,245.00	100.00%	0.00	
08-09	DOWNTOWN SIDEWALK IMPROVEMENTS	1657	319,782.00		319,782.00	25,645.00	345,427.00	108.02%	0.00	
08-10	GOOD SAMARITAN COMMUNITY SERVICES	1658	7,245.00		7,245.00		7,245.00	100.00%	0.00	
08-11	VBR FOSTER AGENCY	1659	7,245.00		7,245.00		7,245.00	100.00%	0.00	
08-12	MEALS ON WHEELS PROGRAM	1660	7,245.00		7,245.00		7,245.00	100.00%	0.00	
08-13	TRACY ADMINISTRATION	1736					731.51			
	2008 ALLOCATION		393,070.00	(1,487.07)	391,582.93	25,645.00	417,959.44	106.74%	0.00	
09-01	TRACY INTERFAITH MINISTRIES FOOD CLOS	1809	7,214.00		7,214.00		7,214.00	100.00%	0.00	
09-02	YOUTH ART SCHOLARSHIPS	1810	7,214.00		7,214.00		7,214.00	100.00%	0.00	
09-03	SECOND HARVEST FOOD BANK	1811	7,214.00		7,214.00		7,214.00	100.00%	0.00	
09-04	SAN JOAQUIN FAIR HOUSING	1812	11,692.00		11,692.00		11,692.00	100.00%	0.00	
09-05	MC HENRY HOUSE SHELTER-ROOF	1813	60,500.00	9,104.12	69,604.12		69,604.12	100.00%	0.00	
09-06	EMERGENCY FB-NUTRITION ON THE MOVE	1814	2,000.00		2,000.00		2,000.00	100.00%	0.00	
09-07	WOMEN'S CENTER	1815	7,214.00		7,214.00		7,214.00	100.00%	0.00	
09-08	BOYS & GIRLS CLUB TRACY OUTREACH	1816	7,214.00		7,214.00		7,214.00	100.00%	0.00	
09-09	DOWNTOWN SIDEWALK IMPROVEMENTS	1817	263,072.00	44,381.00	307,453.00		296,993.22	96.60%	10,459.78	
09-10	TRACY VOLUNTEERS COMMUNITY SERVICES	1818	7,214.00		7,214.00		7,214.00	100.00%	0.00	
09-11	VBR FOSTER AGENCY	1819	7,214.00		7,214.00		7,214.00	100.00%	0.00	
09-12	MC HENRY HOUSE SHELTER-OPERATING EX	1820	7,214.00		7,214.00		7,214.00	100.00%	0.00	
	2009 ALLOCATION		394,976.00	53,485.12	448,461.12	0.00	438,001.34		10,459.78	
10-01	Tracy Interfaith Ministries Food Closet	1952	6,965.21		6,965.21		6,965.21	100.00%	0.00	
10-02	Meals on Wheels	1953	7,035.57		7,035.57		7,035.57	100.00%	0.00	
10-03	Second Harvest Food Bank	1954	6,736.55		6,736.55		6,736.55	100.00%	0.00	
10-04	San Joaquin Fair Housing	1898	10,000.00		10,000.00		10,000.00	100.00%	0.00	
10-05	McHenry House	1955	7,316.99		7,316.99			0.00%	7,316.99	
10-06	Nutrition on the Move Program	1956	2,000.00		2,000.00		2,000.00	100.00%	0.00	
10-07	Women's Center of SJC	1957	7,035.57		7,035.57		3,219.57	45.76%	3,816.00	
10-08	Boys & Girls Club Outreach Program	1958	5,857.11		5,857.11		5,857.11	100.00%	0.00	
10-09	Downtown ADA Sidewalk Improvement Project	1959	239,017.99	22,000.00	261,017.99			0.00%	261,017.99	
10-10	Tracy Caregivers	1960	6,208.89		6,208.89			0.00%	6,208.89	
10-11	VBR Foster Family Agency	1961	6,156.12		6,156.12		6,156.12	100.00%	0.00	
10-12	New City America Consulting Firm	1962	70,000.00	-22,000.00	48,000.00		48,000.00	100.00%	0.00	
10-13	Boys & Girls Club Basketball Hoop Replacement	1963	60,000.00		60,000.00			0.00%	60,000.00	
10-14	Disability Resource Agency (DRAIL)	1964	5,000.00		5,000.00		4,948.70	98.97%	51.30	
10-16	McHenry House Apartment Improvements	1965	0.00	5,493.00	5,493.00		5,200.00	94.67%	293.00	
	2010 ALLOCATION		439,330.00	5,493.00	444,823.00	0.00	106,118.83		338,704.17	
11-01	Tracy Interfaith Ministries Food Closet	2083	9,568.00		9,568.00		9,421.00	98.46%	147.00	
11-02	Boys & Girls Clubs of Tracy-Expansion	2084	76,918.00		76,918.00			0.00%	76,918.00	
11-03	Second Harvest Food Bank	2085	9,152.00		9,152.00		2,288.00	25.00%	6,864.00	
11-04	San Joaquin Fair Housing	2001	10,127.00		10,127.00		3,932.07	38.83%	6,194.93	
11-05	McHenry House-Fire Alarm System	2086	45,000.00		45,000.00			0.00%	45,000.00	
11-06	EFB-Mobile Farmer's Market	2087	2,000.00	1,000.00	3,000.00		3,000.00	100.00%	0.00	

NEIGHBORHOOD PRESERVATION									EXHIBIT A
CDBG FINANCIAL STATUS REPORT									
CITY OF TRACY ALLOCATIONS									
January 17, 2012									
	HUD	ORIGINAL	TRANSFER	ADJUSTED	PROGRAM	UNLIQUIDATE	AMOUNT	TOTAL %	UNOBLIGATED
DESCRIPTION	AC.#	ALLOCATION	ADD/(DEL)	ALLOCATION	INCOME	ENCUMBRAN	EXPENDED	OBL.& EXP.	BALANCE
11-07 Tracy City Center Association	2088	67,869.00		67,869.00	PROJECT CANCELED BY HUD			0.00%	67,869.00
11-08 Women's Center of SJC	2089	8,423.00		8,423.00				0.00%	8,423.00
11-09 Boys & Girls Club Outreach Program	2090	9,568.00		9,568.00				0.00%	9,568.00
11-10 City of Tracy - Grande Theater ADA Entrance Do	2091	58,000.00		58,000.00				0.00%	58,000.00
11-11 Lolly Hansen Senior Center Outdoor Recreation /	2092	52,606.00		52,606.00				0.00%	52,606.00
11-12 Meals on Wheels Program	2093	8,112.00		8,112.00			2,896.00	35.70%	5,216.00
11-13 McHenry House Family Shelter	2094	8,944.00		8,944.00				0.00%	8,944.00
2011 ALLOCATION		366,287.00	1,000.00	367,287.00	0.00	0.00	21,537.07		345,749.93
GRAND TOTAL		9,499,864.37	109,400.82	9,609,265.19	34,475.50	0.00	8,910,250.19	92.73%	725,391.51
							PROGRAM INCOME		-25,645.00
							CDBG ALLOCATIONS		751,036.51
	439,330.00	0.00							

EXHIBIT B
 FY 2012-2013
 CDBG PROPOSALS

<u>GRANTEE</u> (Public Services)	<u>ACTIVITY</u>	<u>REQUESTED</u> <u>FUNDING</u>	<u>RECOMMENDED</u> <u>FUNDING</u>
15% Cap - \$62,693- \$10,228 Fair Housing= \$52,465			
<i>San Joaquin Fair Housing</i>	<i>Fair Housing Assistance</i>	\$ 10,228	\$ 10,228
South County Crisis Center	Developing Healthier Choices for successful families	\$ 5,000	\$0
Second Harvest Food Bank	Food Assistance	\$ 10,000	\$ 7,994
Emergency Food Bank	Mobile Farmer's Market	\$ 2,000	\$ 2,000
Emergency Food Bank	Farm to Family Program	\$ 2,500	\$ 2,500
Visionary Home Builders	Blueprint to Foreclosure Recovery	\$85,000	\$0
McHenry House Tracy Family Shelter	Family Crisis Intervention Program	\$ 25,000	\$ 7,994
(HAS) San Joaquin Human Services Agency	Home Delivered Meals Program	\$19,850	\$ 7,994
Women's Center of San Joaquin	TREE House-Shelter and Services for Domestic Violence Victims	\$ 10,000	\$ 7,994
Tracy Interfaith Ministries	Hunger Awareness Food Distribution	\$ 15,000	\$ 7,994
Boys and Girls Club of Tracy	Developing Youth, Developing Employees, Developing Tracy	\$ 12,000	\$7,994
TOTAL			\$62,692.00

(Planning and Administration)
14% Cap - \$58,513

City of Tracy	Administrating CDBG Program	\$ 58,513	\$58,513
TOTAL			\$58,513

<u>GRANTEE</u>	<u>ACTIVITY</u>	<u>REQUESTED FUNDING</u>	<u>RECOMMENDED FUNDING</u>
<u>\$364,618 (including \$67,869 of unused 2011-2012 funds)</u>			
<u>(Public Facilities)</u>			
<u>No Cap - \$Remaining Funds</u>			
Boys and Girls Club	More Program Space For Youth	\$ 75,000	\$0
City of Tracy Parks and Recreation	Senior Center Outdoor Recreation Area	\$ 90,000	\$90,000
<u>(Economic Development)</u>			
<u>No Cap - \$Remaining Funds</u>			
City of Tracy	Small Business Incubator	\$ 274,618	\$274,618
TOTAL		\$439,618	\$364,618
OVERALL TOTAL			\$ 485,823
			(Includes \$67,869 of unused 2011-2012 funds)
<u>HOME Funds</u>			
<u>(\$64,127 available)</u>			
Housing Fund	Down Pmt Assistance Loans	<u>\$64,127</u>	<u>\$64,127</u>

EXHIBIT C
FY 2012-2013
CDBG PROPOSALS RECEIVED

Public Service Requests

San Joaquin Housing Authority – This request was automatically granted by HUD to fund the San Joaquin Housing Authorities and their housing projects for the City Of Tracy.

SOUTH COUNTY CRISIS CENTER – This request is for funding to provide educational classes for children and parents in domestic violence in San Joaquin County from their Manteca facility.

SECOND HARVEST FOOD BANK – This request is to help fund operating costs for food distribution programs in Tracy.

EMERGENCY FOOD BANK. – This request is to help fund Farm to family Fresh Fruit and Produce program.

EMERGENCY FOOD BANK – This request is to help fund the mobile farmer's market program in Tracy.

VISIONARY HOME BUILDERS - This request is to help fund the Blueprint to Foreclosure Recovery Program.

MCHENRY HOUSE - This request is to help fund the family crisis intervention program.

HUMAN SERVICES AGENCY – This request is to fund the meals on wheels program in Tracy.

WOMEN'S CENTER OF SAN JOAQUIN COUNTY – This request is to help fund a counselor at Tracy safe house.

TRACY INTERFAITH MINISTRIES – This request is to help fund the costs of a food distribution program.

BOYS AND GIRLS CLUB - This request is to retain and create the jobs for 6 people (4 retained/2create) to provide services to youth in the City Of Tracy.

Planning and Administration Services Requests

CITY OF TRACY- This request is for Administering the CDBG Program for program year 2012-2013.

Public Facility Requests

CITY OF TRACY- This request is for the Lolly Hansen Senior Center. This is for completion of construction of an ADA accessible senior Center Outdoor Area.

BOYS AND GIRLS CLUB- This request is for more program space for Tracy's youth. Converting the break room into program space for approximately 20 young people.

Economic Development

CITY OF TRACY- This request is to support funding for the City Of Tracy's Small Business Incubator currently being developed.

HOME FUNDS

CITY OF TRACY- This request is for the only down payment assistance program available in the City of Tracy which supports the Neighborhood Stabilization Program managed by the San Joaquin County.

EXHIBIT D
FORM AGREEMENT

AGREEMENT BETWEEN THE CITY OF TRACY
AND (NAME OF ORGANIZATION)
FOR COMMUNITY DEVELOPMENT BLOCK GRANT
FUNDING FOR FISCAL YEAR 2012-2013

THIS AGREEMENT entered into this 1st day of July 2012 by and between the City of Tracy (herein called the "Grantee") and (NAME OF ORGANIZATION) (herein called the "Subrecipient").

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; and,

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds to the benefit of low-income residents;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. Activities

The Subrecipient will be responsible for administering a CDBG fiscal year 2012 - 2013 program in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant Program:

Program Delivery

Activity #1 (Complete description of activity to be undertaken, what products or services are to be performed, where they are to be provided, for whom they are to be provided, how they are to be provided.)

Activity #2 (Same)

Activity #3 (Same)

General Administration

B. National Objectives

The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet one or more of the CDBG program's National Objectives: 1) benefit low/moderate income persons, 2) aid in the prevention or elimination of slums or blight, 3) meet community development needs having a particular urgency, as defined in 24 CFR Part 570.208.

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Subrecipient agrees to provide the following levels of program services:

<u>Activity</u>	<u>Units per Month</u>	<u>Total Units/Year</u>
-----------------	------------------------	-------------------------

D. Staffing (Provide list of staff and time commitments to be allocated to each activity specified in I.A.)

EXHIBIT D
FORM AGREEMENT

E. Performance Monitoring

The Grantee will monitor the performance of the Subrecipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

II. TIME OF PERFORMANCE

Services of the Subrecipient shall start on the 1st day of July 2011 and end on the 30th day of June 2012. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Subrecipient remains in control of CDBG funds or other assets, including program income.

III. BUDGET

Line Item:	Amount:
Salaries	\$
Fringe	
Office Space (Program Only)	
Utilities	
Communications	
Reproduction/Printing	
Supplies and Materials	
Mileage	
Audit	
Other (specify)	
Indirect costs (specify)	
TOTAL	\$

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C)(2) of this Agreement. In addition, the Grantee may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. The Grantee and the Subrecipient must approve any amendments to this budget in writing.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this contract shall not exceed **\$(enter amount) (\$0.0 Facilities and/or \$0.0 Public Services)** Draw downs for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in OMB Circular A-87, Section 85.20

V. NOTICES

EXHIBIT D
FORM AGREEMENT

Communication and details concerning this contract shall be directed to the following contract representatives:

	<u>Grantee</u>	<u>Subrecipient</u>
Name & Title:	Andrew Malik	(Name of Contact)
Address:	333 Civic Center Drive	Address#1
City, State, Zip:	Tracy, CA 95376	Address City,State
Telephone:	209-831-6490	Phone Number
Fax Number:	209-830-6837	Fax Number

VI. SPECIAL CONDITIONS (Special conditions specific to the particular activity or individual subrecipient)

VII. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent subrecipient.

C. Hold Harmless

The Subrecipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this contract.

E. Insurance & Bonding

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Subrecipient shall comply with the insurance and bonding requirements of 24 CFR Part 84.

EXHIBIT D FORM AGREEMENT

F. Grantor Recognition

The Subrecipient shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

G. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

H. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service in Paragraph I.A above may only be undertaken with the prior approval of the Grantee. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the Grantee, become the property of the Grantee, and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The Grantee may also suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the Grantee may declare the Subrecipient ineligible for any further participation in the Grantee's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is in noncompliance with any applicable rules or regulations, the Grantee may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with 24 CFR Part 84 and agrees to adhere to the accounting principles required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

EXHIBIT D FORM AGREEMENT

The Subrecipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the federal regulations specified in 24 CFR Part 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meet one of the National Objectives of the CDBG program;
- c. Records required determining the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR Part 570.502, and 24 CFR Part 84; and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Subrecipient shall retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. The retention period starts from the date of submission of the consolidated annual performance and evaluation report (CAPER), in which the specific activity is reported on for the final time. Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with

EXHIBIT D
FORM AGREEMENT

respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of minor, that of a responsible parent/guardian.

5. Property Records\Reversion of Assets

The Subrecipient shall maintain real property inventory records that clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(8), as applicable.

- a. Reversion of assets. Any real property acquired or improved in whole or in part using CDBG funds in excess of \$25,000 shall be used as indicated in this agreement (including the beneficiaries of such use) for a period of at least five years after the closeout of the County's grant from which the assistance was provided.

Any changes in the use or planned use of assisted real property shall be bound by the requirements of 24 CFR 570.505.

6. Close-Outs

The Subrecipient's obligation to the Grantee shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records.

7. Audits and Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, their designees or the federal government, at any time during normal business hours, as often as the Grantee or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning subrecipient audits and, as applicable, OMB Circular A-133.

C. Reporting and Payment Procedures

1. Program Income

The Subrecipient shall report monthly, on a monthly basis, all program income as defined at 24 CFR 570.500(a) generate by activities carried out with CDBG funds made available under this contract. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Subrecipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to the Grantee at the end of the

EXHIBIT D
FORM AGREEMENT

contract period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Subrecipient funds available under this contract based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Subrecipient.

4. Progress Reports

The Subrecipient shall submit regular Progress Reports to the Grantee in a form, similar to Appendix "A" on a calendar quarterly basis.

D. Procurement

1. Compliance

The Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this contract.

2. Procurement Standards

The Subrecipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR Part 84, Procurement Standards, and shall subsequently follow, Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

The Subrecipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this contract.

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in § 570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are

EXHIBIT D
FORM AGREEMENT

displaced as a direct result of acquisition demolition or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with local and state civil right ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

2. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

B. Affirmative Action

1. Approved Plan

EXHIBIT D
FORM AGREEMENT

The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

2. W/MBE

The Subrecipient will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" mean a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Subrecipient will include the provisions of Paragraphs X A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

EXHIBIT D
FORM AGREEMENT

2. Labor Standards

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, State and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with federal requirements adopted by the Grantee pertaining to such 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeyworkers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the federal financial assistance provided under this contract and binding upon the Grantee, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this contract is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project awarded to business concerns that provide economic opportunities for low- and very low-income

EXHIBIT D
FORM AGREEMENT

persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency.

The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this contract without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

EXHIBIT D
FORM AGREEMENT

2. Subcontracts

a. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or subrecipients that are receiving funds under the CDBG Entitlement program.

5. Lobbying

The Subrecipient hereby certifies that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal,

EXHIBIT D
FORM AGREEMENT

amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification - Paragraph d

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Subrecipient agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this contract:

- Clean Air Act, 42 U.S.C., 7401, et seq.
- Federal Water Pollution control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

EXHIBIT D
FORM AGREEMENT

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures might be undertaken.

D. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

XII. DRUG FREE WORKPLACE

Subrecipient will provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the subrecipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about:
 - a. The dangers of drug abuse in the workplace;
 - b. The subrecipient's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee engaged in the performance of the grant is given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that as a condition of employment under the grant the employee will:

EXHIBIT D
FORM AGREEMENT

- a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the Grantee in writing, within ten calendar days after receiving notice under subparagraph 4. b. from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking on the following actions, within 30 calendar days of receiving notice under subparagraph 4. b., with respect to any employee who is so convicted:
- a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

XIII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

GRANTEE

SUBRECIPIENT

Andrew Malik, Development & Engineering Services
Director

(Contact), (Title)

RESOLUTION 2012- _____

ALLOCATING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS
FOR FISCAL YEAR 2012-2013

WHEREAS, The City of Tracy, as a sub recipient of San Joaquin County, will receive an estimated \$417,957 in Community Development Block Grant (“CDBG”) funds for fiscal year 2012-2013; and

WHEREAS, During the CDBG grant allocations for fiscal year 2011-2012, City Council approved an allocation of \$67,869 for the Tracy City Center Association Landmark Sign in the Downtown Area; however, the project was rejected by the U.S. Department of Housing and Urban Development (HUD) and therefore never moved forward. As such, \$67,869 can be added to the amount available for Public Facilities and/or Economic Development; and

WHEREAS, The City of Tracy will receive \$64,127 in HOME funds to be allocated to the Down Payment Assistance Loan Program; and

WHEREAS, The City Council conducted a public hearing on March 6, 2012 to consider recommendations for fiscal year 2012-2013 CDBG funds; and

WHEREAS, The entities (the “Awardees”) that receive CDBG funds will be required to enter into an agreement with the City to ensure that the funds are being spent consistent with the applications that were evaluated to determine funding eligibility and amounts. A form agreement (the “Form Agreement”) is attached to the staff report accompanying this resolution; and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy does hereby award Community Development Block Grant funds to the following Awardees in the following amounts:

San Joaquin Fair Housing (Public Services)	\$ 10,228
Second Harvest Food Bank (Public Services)	\$ 7,994
Emergency Food Bank- Mobile Farmers Market (Public Services)	\$ 2,000
Emergency Food Bank- Farm to Family Program (Public Services)	\$ 2,500
McHenry House Tracy Family Shelter (Public Services)	\$ 7,994
San Joaquin Human Services Agency (Public Services)	\$ 7,994
Women’s Center of San Joaquin (Public Services)	\$ 7,994
Tracy Interfaith Ministries (Public Services)	\$ 7,994
Boys and Girls Club of Tracy (Public Services)	\$ 7,994
City of Tracy – CDBG/Housing Administration (Administration)	\$ 58,513
City of Tracy – Parks and Recreation (Public Facility)	\$ 90,000
City of Tracy – Small Business Incubator (Economic Development)	\$274,618
Total	<hr/> \$485,823

BE IT FURTHER RESOLVED, That \$64,127 in HOME funds is awarded to the Down Payment Assistance Loan Program administered by San Joaquin County for the City of Tracy.

BE IT FURTHER RESOLVED, That the Form Agreement is approved and that the Development and Engineering Services Director is authorized and directed to sign the final agreement on behalf of the City.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 6th day of March 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 4

REQUEST

CITY COUNCIL DIRECTION RELATED TO AMENDING A DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES, APPLICATION DA11-0002

EXECUTIVE SUMMARY

This agenda requests City Council direction to negotiate amendments to the Development Agreement (DA) between the City of Tracy and Surland Communities.

DISCUSSION

Background on the DA

Initial direction to City staff to negotiate and process a DA with Surland Companies occurred on January 17, 2006, after City Council selected the Ellis Project site as the preferred location for a Swim Center. A Development Agreement was viewed as an appropriate tool to evaluate a potential public-private partnership to fund and construct a Swim Center.

City staff received direction from City Council on July 17, 2007, when parameters were established for the purposes of drafting a DA and finalizing the Environmental Impact Report (EIR) project description under the California Environmental Quality Act (CEQA).

After Planning Commission review, the City Council approved a DA on December 16, 2008. Attachment A to the staff report is the current, existing DA with Surland Communities.

General Overview of the existing DA

A DA between a city and a private developer is authorized under state law. Generally a DA provides certainty, in the form of vesting or “freezing” various approvals, to the developer in exchange for a public benefit to the City that it would not otherwise achieve through the normal approval process, such as extraordinary funds or land dedication. The DA would create a program where the City would receive a dedication of real property as well as financial resources and design assistance to build a Swim Center on land dedicated within the proposed Ellis Specific Plan site, in exchange for eligibility to receive Residential Growth Allotments (“RGAs”), building permits, water and wastewater capacities on a priority basis for Surland, among other rights explained in greater detail below. The RGAs, building permits, and utility capacities would be used by Surland, potentially on Ellis and on future Surland projects when those projects receive necessary City approvals subject to the limitations in the City’s Growth Management Ordinance (“GMO”). All future consideration of future Surland projects would include appropriate CEQA documentation, including, possibly, EIRs for those projects.

The DA is divided into several parts; the Recitals and three “articles”. The Recitals, pages 1 – 7, set out the factual background of the DA and the related applications and

provide the foundation on which the DA is based. Article 1, the “Applicable Development Terms”, contains the heart of the DA. Article 1 spells out the proposed terms of what benefits each party anticipates receiving from the agreement and what is to be done by each party. This is the part of the agreement that contains the specifics of the DA. For example, the proposed amount to be contributed to the Swim Center and the timing of the payment, the proposed schedule for the eligibility for RGAs, etc. Article 2, “Assignment, Default, Annual Review, Termination, Legal Actions”, identifies procedures and remedies if issues arise during the term of the agreement. Article 3, “General Provisions”, contains a variety of legal provisions which are common to many types of transactions.

Summary of Key Terms in Article 1 of the existing DA

Key terms in Article 1 of the DA are outlined below, beginning with the public benefit that the City would receive via the DA.

Public Benefits:

- \$10 million for a Swim Center (payable to City after LAFCo annexation and completion of any litigation in favor of applicant).
- 16-acres of land for a Swim Center at the Ellis site.
- Design assistance for construction of a Swim Center.

Developer Benefits:

- Creation of a program to have rights to 2,250 RGAs and building permits.
- RGAs and building permits set aside in accordance with an annual allocation schedule beginning with 125 per year and ramping up to 225 per year (first 4 years 125 per year, second 5 years 175 per year, remaining years 225 per year).
- Water for 2,250 RGAs.
- Wastewater treatment for 2,250 RGAs.
- Vesting project approvals for the Ellis Specific Plan and related General Plan Amendment, and existing Growth Management Ordinance and Guidelines.
- DA term of 25 years.
- Naming rights to the Swim Center.

Other terms:

- City to contribute all ‘Plan C’ Aquatic Center funds (approximately \$3 million in CIP 7854 toward construction of the Swim Center at Ellis)
- All Building Permits sought under the DA through the year 2013 would be required to be used at Ellis.
- The land for the proposed Swim Center is an offer of dedication provided the Swim Center is located at Ellis. The offer of land dedication has a

duration of two years from the Annexation Effective Date. The DA does not require the Swim Center to be located at Ellis.

- Development at Ellis is required to comply with the City's existing standard of four acres of parkland dedication per every 1000 people generated. If the Ellis site is selected as the Swim Center site, the Swim Center location will satisfy the park dedication requirements up to one acre per thousand, with the residential development of Ellis being required to then develop an additional three acres per 1000 population.

Proposed Amendments to the existing DA

The Surland Companies submitted an application on December 15, 2011, requesting a Development Agreement which is attached to the staff report (Attachment B: Letter from Surland Companies requesting DA).

The letter proposes \$10 million dollars in funding and 16 acres of land for a swim center and a term of 25 years, as well as water and wastewater treatment and capacity in existing treatment plants.

Basically, this request would enable staff to negotiate amending terms of the DA to remove or modify provisions of the existing DA that dealt with RGAs to properties beyond the Ellis Specific Plan, and more generally clarify overall DA provisions.

STRATEGIC PRIORITY

This item is not directly related to the Council's strategic plans.

FISCAL IMPACT

Negotiating modifications to the DA is funded by the applicant in accordance with a City approved Cost Recovery Agreement dated February 12, 2012.

Upon completing a draft DA, City staff will return with an expanded fiscal impact discussion of what the DA represents in terms of constructing a Swim Center.

RECOMMENDATION

Staff recommends that City Council authorize staff to negotiate a DA or amendments to the existing DA with Surland Companies.

Prepared by: Bill Dean, Assistant DES Director

Reviewed by: Andrew Malik, Development and Engineering Services Director

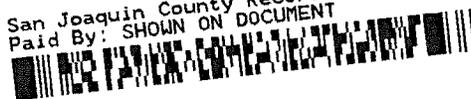
Approved by: Leon Churchill, Jr., City Manager

Agenda Item 4
March 6, 2012
Page 4

Attachments: A: Existing Development Agreement with Surland Companies
B: Letter from Surland Companies requesting a new/amended Development Agreement

Doc #: 2009-022386
Fri Feb 06 12:22:50 PST 2009
Page: 1 of 61 Fee: \$188.00

San Joaquin County Recorders
Paid By: SHOWN ON DOCUMENT



Recording Requested By:

City of Tracy
Sandra Edwards, Tracy City Clerk

When Recorded Return To:

City Clerk's Office
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF TRACY
AND
SURLAND COMMUNITIES**

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1	APPLICABLE DEVELOPMENT TERMS 8
1.01	The Swim Center at Ellis 8
1.02	Other Processing 10
1.03	Applicable Law 11
1.04	Vested Right to Applicable Law 13
1.05	New City Law(s) 13
1.06	Term 15
1.07	RGAs 17
1.08	Building Permits 21
1.09	Significant Actions by Third Parties 22
1.10	Amendment of this Agreement; Inclusion of Owner Approvals into this Agreement 23
1.11	Annexation 23
1.12	Memorandum of Assignment / Operative 24
1.13	Adequate Water Supply 25
1.14	Wastewater Treatment and Conveyance Capacity 26
1.15	Schools 28
1.16	Ellis Specific Plan Parks 28
1.17	Future Impact Fees, Taxes and Assessments; Nexus 28
ARTICLE 2	ASSIGNMENT, DEFAULT, ANNUAL REVIEW, TERMINATION, LEGAL ACTIONS 29
2.01	Covenants Run With The Land 29
2.02	Defaults 29
2.03	Annual Review 30
2.04	Force Majeure Delay, Extension of Times of Performance 31
2.05	Legal Actions 31
ARTICLE 3	GENERAL PROVISIONS 32
3.01	Definitions 32
3.02	Requirements of Development Agreement Statute 38
3.03	Development Timing 39
3.04	Hold Harmless and Indemnification 40
3.05	Miscellaneous 40



**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF TRACY
AND
SURLAND COMMUNITIES, LLC**

This "**Agreement**," dated for the convenience of the Parties this 28th day of Jan, 2009, is entered into by and between the CITY OF TRACY, a municipal corporation ("**City**"), and SURLAND COMMUNITIES, LLC, a California limited liability company ("**Owner**"), pursuant to Government Code sections 65864 *et seq.* ("**Development Agreement Statute**"), City Resolution No. 2004-368 (establishing rules, regulations, procedures and requirements, including fees, for the processing and approval of a development agreement ("**Enabling Resolution**")), and Article XI, section 7 of the California Constitution ("**Police Powers**"). From time to time, City and Owner are individually referred to in this Agreement as a "**Party**," and are collectively referred to as the "**Parties**."

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other considerations, the value and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

RECITALS

A. The preceding Preamble, and the following Recitals, are true and correct, are a part of this Agreement, and the terms defined in both are used throughout this Agreement.

B. To strengthen the public planning process, to encourage private participation in the provision, dedication and funding of community benefits and amenities that could not otherwise be required under controlling law (such as the below-described "**Swim Center**"), to set forth the procedures and processes to be employed in the processing of subsequent development requests, to ensure compliance with all state and federal procedural and substantive laws prior to action on such development requests, and to ensure compliance with all City laws, including without limitation the City's Growth Management Ordinance, City and Owner enter into this Agreement. This Agreement has been drafted and processed pursuant to the Development Agreement Statute, Enabling Resolution and the City's Police Powers.

C. The establishment of a family-oriented swim center is one of the City's priorities, has been contemplated for years, and is overwhelmingly supported by the Tracy community. Yet City funding for such an effort is lacking. Owner, a local developer with a long track record of award-winning development in the City, made a proposal to City whereby Owner would dedicate to City (at no cost to City) up to 21 acres of land, would conceptually design, would assist City with project oversight, and would fund \$20 million toward the construction of the kind of family-oriented Swim Center described in this Agreement for the Tracy community in return for being eligible for a set number of "**Residential Growth Allotments**" (also referred to in this Agreement as "**RGAs**"). This Owner proposal has secured remarkable community support. However, City Planning Commission ("**Planning Commission**") and Staff expressed

reservations regarding the overall number of RGAs being proposed. City Planning Commission and Staff understood that a reduction of RGAs would lead to a reduction of Owner land dedication and money contribution. City Staff recommended a reduced land dedication and a reduced money contribution. The Parties understood that the money contribution should be shared more evenly by the rest of the development community. Therefore, the Parties negotiated a 16-acre land dedication, and a more evenly spread money contribution. All of these Swim Center-related Owner commitments are specifically described in this Agreement and its exhibits and are collectively referred to in this Agreement as the "**Swim Center Commitment.**"

D. Prior to the execution of this Agreement by the Parties, Owner submitted applications to the City regarding the "**Ellis Specific Plan.**" The Ellis Specific Plan is situated on property within the earlier approved and much larger "**South Schulte Specific Plan.**" However, several years ago, City and Owner began discussing the possibility of a smaller, more mixed-use-oriented project than that envisioned in the larger South Schulte Specific Plan. The Parties began processing the Ellis Specific Plan under the City's then existing General Plan which would create a new set of planning and design guidelines for the Ellis project to ensure pedestrian-friendly neighborhood connectivity and overall enhanced community character. That approach envisioned an amendment to the then-existing General Plan as part of the Ellis Specific Plan approval process. Then, City began its update of the then-existing General Plan, and on July 20, 2006, City adopted a General Plan. That new General Plan was further amended as part of the City's approval of the Ellis Specific Plan and project. The updated and amended General Plan as of the adoption and execution of this Agreement is referred to in this Agreement as the "**General Plan.**" The General Plan takes the area originally encompassed by the South Schulte Specific Plan and separates it into several distinct planning areas referred to as "**Urban Reserves.**" Urban Reserves 9, 10 and 11, and parts of Urban Reserves 8 and 16 comprise the area originally encompassed by the original South Schulte Specific Plan.

E. The Ellis Specific Plan lies solely within the area designated as the Urban Reserve 10 planning area in the General Plan. The General Plan envisions that development within Urban Reserve 10 shall be done by Specific Plan, with a corresponding amendment to the General Plan as part of that Specific Plan approval process. Owner submitted applications to City regarding the Ellis Specific Plan (for example, the Ellis Specific Plan, corresponding General Plan Amendment and related zoning, and the Swim Center described in this Agreement – collectively included in any reference to the "Ellis Specific Plan") and Owner submitted an application to City for this Agreement. The General Plan Amendment, done in combination with the Ellis Specific Plan, re-designated the Ellis Specific Plan site into four (4) planning designations: Village Center, Commercial, Public Facilities, and Traditional Residential-Ellis (which includes parks). The Ellis Specific Plan also contains zoning-level regulations for the Ellis Specific Plan site, including regulations relating to the commercial uses (up to approximately 180,000 square feet), residential uses (up to 2,250 residential units of varying type and configuration) and related mixed uses, as well as the Swim Center. From a planning perspective, the goals and ideals of the Ellis Specific Plan exemplify excellence in land planning, architecture, landscape architecture, and urban design, and comply with the General Plan, including its Community Character and Land Use elements. The Ellis Specific Plan encompasses a unique community of a distinct character and type, with well-planned homes, small-scale businesses, major public amenities, including the Swim Center, and an integrated, multi-use village center that promotes businesses that are small, local, and neighborhood-serving.

The Swim Center is to be located adjacent to, and will be complementary with, the village center. The character of development within the Ellis Specific Plan evokes the wonderful historic neighborhoods of Tracy. Traditional planning techniques and architecture true to the local vernacular capture the essence of Tracy and create timeless neighborhoods that fit seamlessly into the City. All these planning goals and ideals have been considered and acted upon by City (in its sole and exclusive discretion) after a public process.

F. The City undertook environmental review of the potential direct and indirect environmental impacts of the Ellis Specific Plan and this Agreement pursuant to the California Environmental Quality Act and Guidelines promulgated there under (collectively, "CEQA") as follows:

(1) As a part of its General Plan efforts, and prior to adopting the General Plan, City undertook environmental review of the potential direct and indirect environmental impacts of the General Plan pursuant to CEQA, certified the Final Environmental Impact Report for the General Plan, State Clearinghouse #1992122069 ("**General Plan EIR**"), and adopted findings, mitigation measures and a statement of overriding considerations in connection therewith. As set forth in greater detail herein, this Agreement is consistent with the General Plan EIR.

(2) As a part of the original South Schulte Specific Plan efforts, City prepared and certified an EIR ("**South Schulte EIR**"). The South Schulte EIR was challenged in court and a settlement was arrived at ("**South Schulte EIR Settlement**") that required City to conduct additional studies and analysis. Initially, the City began to process a Supplemental EIR to address the South Schulte EIR Settlement. However, with the General Plan Update and its new approach to the area formerly known as the South Schulte Community Area, and with the City desire to conduct a thorough analysis of the new Urban Reserve 10, City decided to cause to be prepared an entirely new Environmental Impact Report.

(3) As part of its review of Owner's pending applications, City caused to be prepared an Environmental Impact Report ("**EIR**") analyzing both the Ellis Specific Plan (including the Swim Center) and this Agreement. An earlier version of this Agreement contained a program (sometimes referred to in the EIR as the Development Agreement Program or DAP) to allow up to 3,850 RGAs, building permits (and hence development), which 3,850 was comprised of the development with the Ellis Specific Plan (at a density within its allowed range of 1200 to 2,250) and development in other parts of the City beyond that development ultimately occurring within the Ellis Specific Plan. At the time of the preparation of the EIR, Owner proposed a \$20 million commitment of money and 21 acres of land toward the Swim Center in return for this Agreement allowing Owner the eligibility to apply for up to 3,850 of RGAs. Therefore, the Parties felt that this Agreement was potentially the first step toward other potential future projects (beyond the Ellis Specific Plan) that could become subject to this Agreement, and hence could become eligible to apply for all or a portion of the remaining RGAs allowed by this Agreement, and therefore the review of this Agreement should be included in the EIR. Therefore, the EIR studies the potential impacts of these potential future projects even though currently no specific development applications have been

submitted and therefore such potential future development (beyond the Ellis Specific Plan) arguably is too speculative at this point and beyond the abilities of the EIR. This is because no development nor physical impact different than the status quo can occur under this Agreement or the program it establishes. Only if, unless, and until full compliance with all controlling California law (including proper CEQA and Planning and Zoning Law compliance) has taken place, the City in reliance on that information (generated by such legal compliance) has taken an "action" (which action is within City's sole and exclusive discretion), and that action is a product of such legal compliance, can any development by Owner occur or an RGA be allocated by City under this Agreement. As a result, this Agreement is subject to the general rule that it can be seen with certainty that this Agreement alone cannot and will not lead to any adverse impact on the environment. See, CEQA Guidelines § 15061(b)(3). CEQA applies to a governmental action only if it is an essential step in a chain of events directly or indirectly leading to a change in the physical environment. *Kaufman & Broad-South Bay Inc. v. Morgan Hill Unified School Dist.*, 9 Cal.App.4th 464, 474 (1992); see also *Citizens to Enforce CEQA v. City of Rohnert Park*, 131 Cal.App.4th 1594 (2005); *Simi Valley Recreation & Park Dist. v. Local Agency Formation Com.*, 51 Cal.App.3d 648 (1975). Likewise, if and when City eventually considers all or any aspect of any other Owner proposed project, such consideration will be prefaced with review under CEQA and all other applicable laws. This Agreement expressly requires such subsequent environmental review and expressly prohibits the limitation of that review by this Agreement or any other agreement.

(4) Nonetheless, City decided to address under CEQA, as early as possible, the potential future projects that could become subject to this Agreement, even though currently no specific development proposals (beyond the Ellis Specific Plan approval) have been proposed by Owner. As a result of this City decision, the EIR was drafted to provide the environmental review and analysis for all of the following: (1) the Ellis Specific Plan (with the Swim Center) and its zoning ("**Ellis Approvals**") at the development level (sometimes referred to under controlling law as the project level, the level where enough specifics are known to be able to conduct such detailed analysis), and (2) the remaining potential development contemplated by this Agreement at the program-level. A program EIR is appropriate for this second component of analysis because this Agreement sets forth a program by which the future properties and projects will be subject to future development approvals and future public and environmental review. Program EIRs under CEQA are intended for such situations that, like this Agreement, set forth "rules, regulations, plans, or other general criteria to govern the conduct of a continuing program" (CEQA Guidelines § 15168(a)(3)), such as a future process for the consideration of project approvals.

(5) Ultimately, despite the thorough environmental review set forth in the EIR, the City decided to approve the Ellis Specific Plan project, but also decided to reduce the size of the "Development Agreement Program" or "DAP" (described in the EIR as the potential development beyond Ellis) than that originally proposed by Owner and analyzed in the EIR's "Project Description." Instead, City reduced that DAP to be one equal to the maximum density allowed on the Ellis Specific Plan property (2,250 residential units). Now, this Agreement contains a program to allow up to 2,250 RGAs

and building permits (and hence development), which 2,250 is comprised of the development with the Ellis Specific Plan (at a density within its allowed range of 1200 to 2,250) and development in other parts of the City beyond that development ultimately occurring within the Ellis Specific Plan. Likewise, the City revised the project to require Owner to provide \$10 million and 16 acres toward the Swim Center, rather than \$20 million and 21 acres, with any balance of funds needed expected to be provided by fees or other assessments imposed on other future development projects. The resulting overall development scenario, consequently, is the same as that studied by the EIR except for a reduction in the potential residential units from 3,850 to 2,250. This 1600 unit reduction in potential residential development means that the approved development scenario will produce qualitatively similar but proportionally lesser environmental impacts. Because CEQA authorizes, even encourages, the adoption of an alternative to a proposed project that will result in lesser environmental impacts, the City's environmental review was more than legally adequate. (Pub. Res. Code §§ 21002, 21002.1; CEQA Guidelines § 15002.)

(6) This Agreement does not impede, impair or otherwise seek to truncate or limit future CEQA review. Future CEQA review shall take place as required by applicable law.

G. As of the execution of this Agreement by the Parties, various land use regulations, entitlements, grants, permits and other approvals will have been adopted, issued, and/or granted by City relating to the Ellis Specific Plan, including, without limitation, all of the following:

- (1) EIR (City Council Resol. No. 2008-260)
- (2) Annexation Agreement (City Council Resol. No. 2008-262)
- (3) TR Ellis General Plan Amendment (City Council Resol. No. 2008-261)
- (4) Ellis Specific Plan (with Zoning) (City Ordinance No. 1130)
- (5) This Agreement (City Ordinance No. 1131)

The above-listed approvals are more particularly described in the EIR and the resolutions adopting those approvals.

H. Given the community character quality of the Ellis Specific Plan, its compliance with CEQA and applicable planning and zoning laws, and its approval by the City, and given Owner's significant land dedication, financial obligations and personnel commitment to the Swim Center (as set forth in this Agreement), the City wishes to allow Owner to be eligible to apply for and potentially receive up to 2,250 RGAs. Again, if, and only if, certain specified prerequisites set forth in this Agreement are first satisfied, then may Owner record this Agreement against properties and become "eligible" to apply for the RGAs provided for in this Agreement. As to all property, as detailed in this Agreement, Owner must have a legal or equitable interest in such property before this Agreement can be recorded against such property. Further, under this Agreement, only after an application for development of such property by Owner is first properly and publicly processed and reviewed in compliance with all controlling planning and

environmental (CEQA) laws, the CEQA compliance work is certified and adopted by City, and then the development proposal and its needed permits and entitlements are adopted and approved by City (which City adoption and approval shall remain within the full and exclusive discretion of City and which adoption and approval is not mandated by this Agreement), will Owner be eligible to make application for RGAs under this Agreement. In other words, only upon acquisition of the requisite interest in a property and then the successful conclusion of this City-controlled and fully discretionary planning/environmental review process will Owner then be "eligible" to apply for a set number of RGAs, and those RGAs will only be used on such property and approved project. This opportunity to be "eligible" for such future RGAs if such compliance requirements are secured is enough of an additional value to Owner for Owner to agree to the full Swim Center Commitment; without such additional value, Owner could not agree to the level of land dedication and financial obligation contained in the Swim Center Commitment. Through the Approvals given for the Ellis Specific Plan, Owner may record this Agreement against that property within the Ellis Specific Plan (shown on *Exhibit A* to this Agreement).

I. City's issuance of RGAs under this Agreement complies with City's Growth Management Ordinance and the City's Growth Management Ordinance Guidelines (collectively, "GMO"), and the maximums they set for annual RGA and building permit issuance for development agreements (referred to in this Agreement as the "GMO Maximums" and further defined below in Section 1.07(c) of this Agreement).

J. The real property that is the immediate subject of this Agreement is that portion of the Ellis Specific Plan property that is depicted and legally described on *Exhibit A* to this Agreement (the "**Immediate Property**"). Owner has a legal and/or equitable interest in the Immediate Property. In addition, all of the Ellis Specific Plan property will be subject to this Agreement, and other properties may become eligible to record this Agreement and thereafter secure its relevant rights, responsibilities, burdens and benefits, if and only if the requirements of this Agreement and applicable law are first satisfied. The additional portions of the Ellis Specific Plan property (beyond the Immediate Property) and other potential properties are collectively referred to in this Agreement as an "**Other Property**" or "**Other Properties.**" Further, the Immediate Property and such Other Properties are collectively referred to in this Agreement as the "**Property.**"

K. It is in this unique setting - - a strong community desire to construct the Swim Center and Owner's willingness to provide such an extraordinary commitment in return for future eligibility to apply for RGAs - - that the Parties must draft this Agreement, ensuring that all of the requirements of controlling law are satisfied. This Agreement meets all of the requirements of law: it meets the contents requirements of the Development Agreement Statute and applicable law; it establishes a protocol for the processing of future approvals; and it establishes a process by which this Agreement can be recorded against future properties if and only if the requirements of law are satisfied. City and Owner are entering into this Agreement now in this fashion because of the unique community interest in the Swim Center and the benefits it will bring to Tracy and the unique opportunity the City presently has with the Owner's willingness to make substantial land dedication, design creation and financial contribution commitments to make the Swim Center a reality, while at the same time establishing a process and protocol that ensures that only after appropriate environmental and planning review will the City determine - -

in the City's sole and exclusive discretion - - whether future Owner projects (beyond the Ellis Specific Plan) should be approved.

L. The consideration by City of the Swim Center, its location, the offer by Owner and this Agreement has been underway for more than seven years. In 2001, a survey of the Tracy community and public workshops were held that identified the need for community aquatic facilities. In 2003, NTD Architects completed the Tracy Aquatic Center Feasibility Study. In July 2005, the City Council directed Tracy Tomorrow and Beyond to make recommendations for the Swim Center. In the summer of 2005, Tracy Tomorrow and Beyond conducted additional public workshops. In October of that year, the City Council received the recommendations of Tracy Tomorrow and Beyond. Also in October 2005, Owner proposed Ellis as a location to be considered for the Swim Center. Between October 2005 and January 2006, the City studied a number of possible sites for the Swim Center including the existing Tracy ballpark. In January 2006, the City Council selected the Ellis Specific Plan as the site for the Swim Center. In April 2006, the City Council authorized City Staff to begin negotiations with Owner for a Development Agreement with provisions for the granting of funds and land by Owner for a Swim Center. In August 2006, the City Council, Planning Commission, and Parks Commission approved the conceptual design for the Swim Center at Ellis. In May 2007, the City Council directed City Staff to prioritize this Agreement for Ellis and the Swim Center. In January 2008, a joint Planning Commission/City Council workshop was held to discuss this Agreement, the Ellis Specific Plan, and the Swim Center. Between April and December of 2008, the Planning Commission held a series of public meetings to discuss the EIR, the General Plan Amendment, the Ellis Specific Plan and this Agreement. The City Council and the Planning Commission provided direction and the public provided comment throughout this process.

M. For all of the reasons stated above, this Agreement is consistent with the General Plan and the Ellis Specific Plan. For example, as required by the General Plan, this Agreement envisions proper environmental analysis and a proper planning process in compliance with controlling law before any approval allowing development can take place. No approvals are granted through, nor guaranteed by, this Agreement, and this Agreement ensures that the City's future consideration and decision shall be in the sole and exclusive discretion of the City. (General Plan Goal LU-1 and Objective LU-1.1 (and its Policy P1); Objective LU-1.2 (and its Policy P3); Goal LU-6; and Goal LU-7.) Further, this Agreement requires that any distribution of RGAs under this Agreement comply with all applicable City regulations, including the General Plan (Objective LU-1.4, Policies P1-P5 and Action A1). This Agreement helps to bring to fruition the kind of family-oriented swim center envisioned by the General Plan (Objective OSC-4.1, Policies P3, P10, Action A3). In fact, the General Plan recognizes this Agreement as the potential vehicle by which the City and Owner could reach agreement relative to such a swim center in a manner that City could not otherwise require Owner to do, that Owner may receive RGAs only if and after all requirements of controlling law have been satisfied, and that such risk shall be placed on Owner alone. Finally, this Agreement is not contrary to nor contradictory of any General Plan text or diagrams.

N. On December 3rd, 2008, following duly noticed and conducted public hearings, the Planning Commission, the hearing body for purposes of the Development Agreement Statute, took appropriate action under CEQA, the Planning and Zoning Law, and the Tracy Municipal Code, and made recommendations regarding this Agreement to the City Council. On December

16th, 2008, following duly noticed and conducted public hearings, the City Council certified the EIR, took appropriate action under the Planning and Zoning Law, and introduced and conducted the first reading of Ordinance No. 1131, an ordinance approving this Agreement, and directing this Agreement's execution by City ("**Approving Ordinance**"). On January 6th, 2009, the City Council conducted the second reading and adopted the Approving Ordinance.

ARTICLE 1
APPLICABLE DEVELOPMENT TERMS

1.01 The Swim Center at Ellis.

(a) Owner hereby commits to provide ten million dollars (\$10,000,000.00) toward the design, construction, operation and maintenance of the Swim Center, with City being responsible for the facility program, and construction, operation and maintenance of the facility. Owner shall deposit into a segregated and interest-bearing City account the "**Owner Swim Center Contribution**," as further defined and described in the "**Swim Center Payment Protocol**" set forth in *Exhibit B* to this Agreement, within thirty (30) days of the "**Annexation Effective Date**" of the annexation of the Ellis Specific Plan area to City (defined below). Once so deposited, the Owner Swim Center Contribution shall be available for use by City, further defined and described in the Swim Center Payment Protocol set forth in *Exhibit B* to this Agreement. City and Owner shall develop the Swim Center pursuant to a public/private partnership. The detailed terms and conditions of that public/private partnership are set forth in *Exhibit B* to this Agreement.

(b) Owner shall make an offer of dedication to City of land not to exceed a total size of sixteen (16) acres (unless Owner in its sole and exclusive discretion determines to provide City with more than 16 acres) for the Swim Center ("**Swim Center Land Dedication**"), subject to the following:

(1) Within thirty (30) days of the Annexation Effective Date, Owner shall make an offer of dedication of the Swim Center Land Dedication to City, which Swim Center Land Dedication shall be of no cost to City. Owner's offer of the Swim Center Land Dedication shall take place in that location and configuration set forth in the Ellis Specific Plan. City shall have two (2) years from the Annexation Effective Date to accept the Swim Center Land Dedication ("**Two-Year Period**"). If City does not accept said Swim Center Land Dedication within the Two-Year Period, then one (1) day after the conclusion of the Two-Year Period, such Owner offer to City of the Swim Center Land Dedication shall be considered rejected by City, shall expire without any further action of the Parties, and thereafter, the land comprising the Swim Center Land Dedication shall be available for development by Owner pursuant to the Ellis Specific Plan. Additionally, at any time prior to said Two-Year Period, City may reject Owner's offer to City of the Swim Center Land Dedication, and upon such City rejection, the land comprising the Swim Center Land Dedication shall be available to Owner for development pursuant to the Ellis Specific Plan.

(2) The minimum on-site park requirements of the Ellis Specific Plan are addressed in Section 1.16 of this Agreement. The Swim Center shall be considered a City "community park," as that term is defined in the General Plan and other City laws. Upon City

acceptance of the Swim Center Land Dedication, Owner shall have satisfied its community or regional park(s) obligation, and shall not be required to pay any additional monies toward the Swim Center or any other community or regional park(s).

(c) City shall contribute toward the Swim Center that amount of money (plus interest earned) that City has already collected (and will continue to collect) from the Plan C FIP designated for an aquatic center ("**City Swim Center Contribution**"). The Owner Swim Center Contribution and the City Swim Center Contribution are collectively referred to in this Agreement as the "**Swim Center Funds.**" Additionally, to the extent legally possible, City should establish and impose against new development a fee, charge, assessment or other financial obligation to be used toward the costs of the design, construction, operation and maintenance of the Swim Center ("**New Development Swim Center Contribution**"). Any and all New Development Swim Center Contributions collected by City should be added to the Swim Center Funds. The requirements of this subdivision (c) are further defined and described in the Swim Center Payment Protocol set forth in *Exhibit B* to this Agreement.

(d) Owner already has provided a design team to City, and Owner has already conducted an outreach program that led to the completion of the "**Conceptual Design**" of the Swim Center. The Conceptual Design provides the detail for the Swim Center project description provided by this Agreement.

(e) The Swim Center shall be named the "**Serpa Swim Center.**" After acceptance of the Swim Center by the City, but prior to the opening of the Swim Center to the public, City shall allow Owner to use and occupy the Swim Center for one (1) day without charge. Owner shall provide adequate insurance coverage for such use and occupancy.

(f) The amenities included in the Conceptual Design for the Swim Center have been selected through a public outreach program, are subject to the constraints of the Swim Center budget and compliance with controlling law, and may include the following:

- (1) 50 Meter (approximately) Competition Pool
- (2) Recreation Pool (separate from Competition Pool)
- (3) Spray ground
- (4) Water Slide
- (5) Wet Play Structure
- (6) Lazy River
- (7) Flow Rider
- (8) Showers and Locker Rooms
- (9) Ticket Facilities

(10) Pool Equipment Room and Storage

(11) On Site Development (parking, ancillary structures, landscaping, etc.).

(g) If a funding shortfall should exist, the work for each phase of the Swim Center shall be prioritized for that particular phase at the time that City seeks bids for the particular phase. Work receiving a higher priority shall be completed first so as to ensure its completion. As a result, if work cannot be completed due to a budget shortfall, that work receiving a lower priority could potentially be deferred.

1.02 Other Processing.

(a) Nothing in this Agreement shall be construed to limit the authority or obligation of City to hold necessary public hearings, nor to limit the discretion of City or any of its officers or officials with regard to those "**Owner Approvals**" (defined below) that require the exercise of discretion by City, provided that such discretion shall be exercised consistent with the laws contained with the Applicable Law.

(b) At its approval and execution, this Agreement does not provide Owner with any right to develop or construct any project or to secure any Owner Approval; instead, it simply provides certain rights and responsibilities regarding approvals already given for the Ellis Specific Plan, provides certain vested rights to laws and approvals already in place, provides a protocol by which later Owner Approvals may be processed by Owner and later included into this Agreement - - if and only if such Owner Approvals are compliant with all controlling California law (including proper Planning and Zoning Law and CEQA compliance), have secured approval of the Parties, and are adopted/approved by the City (who shall retain all discretion in this regard) - - and provides the process by which this Agreement will be recorded against the property that Owner has the statutorily-required interest in. The public review process envisioned by this Agreement is ongoing, and following City's adoption of this Agreement, that public review process shall continue.

(c) City shall inform Owner, upon request, of the necessary submission requirements for a complete application for each Owner Approval. Owner Approval shall include, without limitation, an Owner petition to LAFCO seeking all LAFCO approvals relative to the annexation of Owner property to the City, and/or an Owner request to City that City adopt a resolution of application to LAFCO seeking all LAFCO approvals relative to the annexation of Owner property to the City, and/or all the actions contemplated in Section 1.11 of this Agreement. Provided Owner has paid all appropriate Processing Fees, City shall accept, process, review and act upon all applications for Owner Approvals pursuant to this Agreement and the Applicable Law it describes with "**Good Faith and Fair and Expeditious Dealing.**" Likewise, City shall commence, continue and diligently process any and all initial studies, assessments, EIRs and other relevant CEQA compliance documents regarding the Owner Approvals with Good Faith and Fair and Expeditious Dealing. For the purposes of this Agreement, "Good Faith and Fair and Expeditious Dealing" shall mean that that the Parties shall act toward each other and the tasks necessary or desirous to the processing contemplated by this Agreement pursuant to the Applicable Law and in a fair, diligent, best efforts, expeditious and reasonable manner

(except in those cases where a Party is given sole discretion under this Agreement), and that no Party or Parties shall take any action that will prohibit, impair or impede any other Party's or Parties' exercise or enjoyment of its rights and obligations secured through this Agreement.

(d) If Owner requests, City shall meet with Owner prior to Owner's submission of applications for Owner Approvals for the purpose of ensuring all requested information is understood by Owner so that Owner's applications, when submitted, will be accurate and complete. Upon submission by Owner of an application for an Owner Approval, together with appropriate Processing Fees, City shall process such application for Owner Approval with Good Faith and Fair and Expeditious Dealing. If City is unable to so process any such application, or upon request by Owner, City shall engage mutually acceptable outside consultants to aid in such processing. Owner shall be required to pay all of City's actual costs related to such outside consultants. Owner, in a timely manner, shall provide City with all documents, applications, plans and other information necessary for City to carry out its obligations hereunder, and Owner shall cause the Owner's planners, engineers and all other consultants to submit in a timely manner all required materials and documents. If City denies an application for an Owner Approval, City shall specify in detail the modifications, changes, or improvements that are required to obtain approval. City and Owner shall cooperate, with the goal being to obtain and issue Owner Approvals that are consistent with the modifications, changes, or improvements that are required by City. City shall with Good Faith and Fair and Expeditious Dealing consider any subsequently submitted Owner Approval that complies with the City-specified modifications.

1.03 Applicable Law.

(a) As used in this Agreement, "**Applicable Law**" shall exclusively mean all of the following:

(1) As relates to the development of any or all of the Property, the terms and conditions of this Agreement.

(2) The EIR, the General Plan Amendment, the Ellis Specific Plan and its zoning regulations, and all other land use regulations, entitlements, grants, permits, plans and other "**Owner Approvals**" that City has already or will in the future specifically approve, adopt, issue, and/or grant relative to Owner requests relating to the Property, provided such Owner Approvals are:

(A) Compliant with all controlling California law (e.g., Planning and Zoning Law, CEQA, etc.);

(B) Mutually agreed to by the Parties;

(C) Adopted by the City; and

(D) Take "**Legal Effect.**"

(3) As relates to the development of any or all of the Property, the City rules, regulations, ordinances, policies, standards, specifications, practices and standard

operating procedures of City (whether adopted by the City Council, the Planning Commission, the City staff or the voters of the City) in force and effect on December 1st, 2008 ("**Existing City Laws**"). The City has determined that the Specific Plan Ordinance adopted by City on November 18th, 2008 does not apply to the Property.

(4) As relates to the development of any or all of the Property, the City "**Processing Fees**" for land use approvals, including without limitation, fees for processing zoning, subdivision maps, building permits and other similar permits and entitlements which are charged for processing applications and which are in force and effect on a Citywide basis at the time the application for the Owner Approval is presented to the City.

(5) As relates to the development of any or all of the Property, the California Building Code (as modified by City), and those other State-adopted construction, fire and other codes, including "Green Codes" (as all may be modified by City) applicable to improvements, structures and development, and the applicable version or revision of said codes by local City action (collectively referred to as "**Construction Codes**") in place at that time (date) that building plans subject to such Construction Codes are submitted by Owner to City for an Owner Approval, provided that such Construction Codes have been adopted by City and are in effect on a Citywide basis.

(6) As relates to the development of any or all of the Property, the "**Mandated New City Law(s)**," pursuant to Section 1.05(e) of this Agreement.

(7) As relates to the development of any or all of the Property, the "**New City Law(s)**" that Owner elects to be subject to pursuant to Section 1.05(d).

(8) As relates to the development of any or all of the property contained in a Plan Approval outside the Ellis Specific Plan, those "affordable housing" laws in place at the time of application completion for such Plan Approval.

(b) This Agreement complies with laws regarding Development Agreement Statute (including without limitation section 65865.2), which requires this Agreement to specify the duration (Term) of the Agreement, the permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The duration of this Agreement is set forth in Section 1.06 of this Agreement, and this Agreement sets forth provisions for the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes in the Applicable Law provisions of this Agreement. For example, the Ellis Specific Plan is part of the Applicable Law for the Ellis Specific Plan property, and the Ellis Specific Plan sets forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes for that Ellis Specific Plan property. Likewise, as to Other Properties beyond the Ellis Specific Plan property that this Agreement may apply to in the future, upon the recordation of this Agreement against such Property, the Applicable Law will apply, which Applicable Law uses the General Plan and City Laws applicable to such Property, all of which set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Further, such General Plan and City

Laws require the processing and City approval of Owner Approvals before any development can take place, which Owner Approvals will likewise set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Finally, under this Agreement's own terms and conditions, Owner is not eligible to make application for nor receive an RGA (needed before any residential development can take place in City) unless and until a "**Plan Approval**" (defined in Section 1.07(b) of this Agreement) has first been processed and approved by City pursuant to this Agreement. Under this Agreement, such Plan Approval must set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Like the Ellis Specific Plan, that Plan Approval will become part of the Applicable Law provisions of this Agreement. In other words, at no time upon the recordation of this Agreement against a Property (which recordation cannot take place until the requirements of this Agreement and controlling law have been satisfied regarding the recordation of this Agreement against such Property) will there not be applicable, known and understood permitted uses, the density and intensity of those uses, the maximum height and size of proposed buildings, and the dedication of land for public purposes relative to such Property.

(c) The Parties acknowledge that the Ellis Approvals and other Owner Approvals likely will be processed in stages and therefore one or more Ellis Approvals and/or Owner Approvals may take Legal Effect before other Ellis Approvals and/or Owner Approvals.

(d) In the event of any conflict between any of subparts (1), (2), (3), (4), (5), (6) and/or (7) of subdivision (a) of this Section 1.03 (above), the hierarchical order of authority shall be subpart (1) first, then subpart (2), then subpart (3), then subpart (4), then subpart (5), then subpart (6), then subpart (7), then subpart (8).

1.04 Vested Right to Applicable Law.

(a) By this Agreement, the Property against which this Agreement is recorded (such recordation not allowed until the requirements of this Agreement and applicable law have been satisfied) shall have a vested right to the Applicable Law.

(b) During the Term of this Agreement, any development of the Property (Immediate Property and/or Other Property) and any discretion exercised by City on an Owner Approval shall occur pursuant to only the law that comprises the Applicable Law. During the Term of this Agreement, City regulation of the development of the Property (Immediate Property and/or Other Property) shall occur pursuant to only the Applicable Law.

1.05 New City Law(s).

(a) Any City ordinance, resolution, minute order, rule, motion, policy, standard, specification, or a practice adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not part of the Applicable and that takes effect on or after December 2nd, 2008 is hereby referred to as a "**New City Law(s).**" The Parties recognize that City is currently updating its GMO Guidelines and that the provisions set forth in this Agreement will be incorporated into the GMO Guidelines. Except as otherwise provided in this Agreement, a New City Law shall be deemed to be in conflict with

this Agreement or the Applicable Law or to reduce the development rights provided hereby if the application to the Property would accomplish any of the following results, either by specific reference to the Property or as part of a general enactment which affects or applies to the Property:

(1) Change any land use designation or permitted use of the Property allowed by the Applicable Law or limit or reduce the density or intensity of the Property or any part thereof, or otherwise require any reduction in the total number of residential dwelling units, square footage, floor area ratio, height of buildings, or number of proposed non-residential buildings, or other improvements;

(2) Limit or control the availability of public utilities, services, or facilities otherwise allowed by the Applicable Law;

(3) Limit or control the rate, timing, phasing or sequencing of the approval, development, or construction of all or any part of the Property and/or Owner Approvals in any manner, or take any action or refrain from taking any action that results in Owner's having to substantially delay construction on the Property or require the acquisition of additional permits or approvals by the City other than those required by the Applicable Law;

(4) Limit or control the location of buildings, structures, grading, or other improvements of the Property in a manner that is inconsistent with or more restrictive than the limitations in the Ellis Approvals and Applicable Law;

(5) Limit the processing of Owner Approvals.

(b) City shall not apply any New City Law(s) to the Property that is in conflict with this Agreement or that is excessive under controlling law (collectively, "in conflict with" or "inconsistent with"). If City believes that it has the right under this Agreement to impose/apply a New City Law on the Property/project, it shall send written notice to Owner of that City position ("**Notice of New Law(s)**"). Upon receipt of the Notice of New City Law, if Owner believes that such New City Law is in conflict with this Agreement, Owner may send written notice to City within thirty (30) days of Owner's receipt of City's Notice of New Law ("**Objection to New City Law(s)**"). Owner's notice to City of its Objection to New City Law(s) shall set forth the factual and legal reasons why Owner believes City cannot apply the New City Law(s) to the Property. City shall respond to Owner's Objection to New City Law(s) ("**City Response**") within thirty (30) days of receipt of said Owner Objection to New City Law(s). Thereafter, the Parties shall meet and confer within thirty (30) days of the date of Owner's receipt of the City Response and shall continue to meet over the next sixty (60) days ("**Meet and Confer Period**") with the objective of arriving at a mutually acceptable solution to this disagreement. The New City Law(s) shall not be applied to the Property until the dispute over the applicability of the New City Law(s) is resolved. Within fifteen (15) days of the conclusion of the Meet and Confer Period, City shall make its determination, and shall send written notice to Owner of that City determination. If City determines to impose/apply the New City Law(s) to the Property in question, then Owner shall have a period of ninety (90) days from the date of receipt of such City determination within which to file legal action challenging such City action. In other words, a 90-day statute of limitations regarding Owner's right to judicial review of the New City Law(s)

shall commence upon the conclusion of the Meet and Confer Period. If upon conclusion of judicial review of the New City Law(s) (at the highest judicial level sought and granted), the reviewing court determines that Owner is not subject to the New City Law(s), such New City Law(s) shall cease to be a part of the Applicable Law, and City shall return Owner to the position Owner was in prior to City's application of such New City Law(s) (e.g., City return fees, return dedications, etc.).

(c) The above-described procedure shall not be construed to interfere with City's right to adopt or apply any New City Law(s) with regard to all other areas of City (excluding the Property and Owner Approvals).

(d) Owner, in its sole and absolute discretion, may elect to be subject to a New City Law(s) that is/are not otherwise a part of the Applicable Law. In the event Owner so elects, Owner shall provide notice to City of that election and thereafter such New City Law(s) shall be part of the Applicable Law.

(e) City shall not be precluded from applying any New City Law(s) to the extent that such New City Law(s) are specifically mandated to be applied to developments such as the development of the Property by changes in State or Federal laws or regulations (and implemented through the Federal, State, regional and/or local level) ("**Mandated New City Law(s)**"). In the event such Mandated New City Law(s) prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by City for the Property, this Agreement shall be modified, extended or suspended as may be necessary to comply with such Mandated New City Law(s). Immediately after enactment of any such Mandated New City Law(s) that will materially affect the terms and conditions of this Agreement, the Parties shall meet and confer in good faith (pursuant to subdivision (e) above) to determine the feasibility of any such modification, extension or suspension based on the effect such modification, extension or suspension would have on the purposes and intent of this Agreement. In the event that an administrative challenge and/or legal challenge (as appropriate) to such Mandated New City Law(s) preventing compliance with this Agreement is brought and is successful in having such Mandated New City Law(s) determined to not apply to this Agreement, this Agreement shall remain unmodified and in full force and effect. To the extent that any such Mandated New City Law(s) (or actions of regional and local agencies, including City, required by such Mandated New City Law(s) or actions of City taken in good faith in order to prevent adverse impacts upon City because of such Mandated New City Law(s)) have the effect of preventing, delaying or modifying Owner's ability to use or develop the Property or any portion thereof, in a material fashion, then Owner shall have the option to terminate (unilaterally) this Agreement.

1.06 Term.

(a) The term of this Agreement shall commence thirty (30) days after the adoption of the Approving Ordinance ("**Agreement Effective Date**"), and shall continue twenty five (25) years plus one day ("**Term**"), unless said Term is otherwise terminated, modified or extended as provided in this Agreement or any amendment thereto.

(b) If any administrative, legal and/or equitable action and/or other proceeding instituted by any person, entity or organization (that is not a Party to this Agreement) challenging the validity of this Agreement, the Ellis Specific Plan project, the Ellis Approvals, the Owner Approvals and their respective projects, or the sufficiency of any environmental review under CEQA ("**Third Party Challenge**") is filed, then the Term of this Agreement shall be tolled for the period of time from the date of the filing of such Third Party Challenge until the conclusion of such litigation by dismissal or entry of a final judgment, provided such tolling period does not exceed five (5) years. The filing of any such Third Party Challenge(s) against City and/or Owner shall not delay or stop the development, processing or construction of the Ellis Specific Plan or other approval or issuance of any Owner Approvals, unless enjoined or otherwise controlled by a court of competent jurisdiction. The Parties shall not stipulate to the issuance of any such order unless mutually agreed to.

(c) Notwithstanding any other part of this Section 1.06, as it relates to a residential unit, this Agreement shall terminate and be of no further force and effect for each individual residential unit on the Property on that date a "**Certificate of Occupancy**" is issued by City for such residential unit.

(d) Pursuant to Government Code section 66452.6(a) (or its successor section in substantially the same form) and this Agreement, and subject to subdivision (f) of this Section 1.06, the term of any tentative map, vesting tentative map, parcel map, vesting parcel map or final map, or any re-subdivision or any amendment to any such map (collectively referred to as "**Subdivision Document**") relating to the Property shall automatically be extended to and until the later of the following: (1) the end of the term of this Agreement; or (2) the end of the term or life of any such Subdivision Document otherwise given pursuant to the Subdivision Map Act or local regulation not in conflict with the Subdivision Map Act. Any improvement agreement entered into pursuant to the Subdivision Map Act or other State or local regulation shall have a term no shorter than 365 days from execution of the improvement agreement and no longer than that term decided by City.

(e) If this Agreement terminates for any reason prior to the expiration of vested rights otherwise given under the Subdivision Map Act to any vesting tentative map, vesting parcel map, vesting final map or any other type of vesting map on the Property (or any portion of the Property) (collectively, "**Vesting Map**"), such termination of this Agreement shall not affect Owner's right to proceed with development under such Vesting Map in accordance with the ordinances, policies and standards so vested under the Vesting Map. Notwithstanding the foregoing or any other provision of this Agreement or the Applicable Law it describes, no Vesting Map shall extend the Applicable Law beyond the stated Term of this Agreement (and the rules, regulations and official policies of City applicable to that portion of the Property covered by such Vesting Map shall become those in effect as of the expiration of such Term), except as otherwise agreed to by City and Owner; provided, however, that City and Owner may agree to an extension of the Term of this Agreement with respect to the area covered by any such Vesting Map.

(f) The term of any Owner Approvals, including without limitation, all development plans, development permits, or other permit, grant, agreement, approval or entitlement for the general development of all or any part of their respective projects and

properties, shall automatically be extended to and until the later of the following: (1) the end of the Term of this Agreement; or (2) the end of the term or life of the Owner Approval otherwise given pursuant to controlling law.

1.07 RGAs.

(a) No RGAs shall be allocated to any Property against which this Agreement is recorded except as provided by this Agreement. If this Agreement is recorded against Other Properties, such Other Properties shall be limited to receipt of RGAs from City pursuant to this Agreement only, and the collective totals of RGAs that can be allocated by City to such Other Properties shall not exceed the RGA totals set forth in this Agreement.

(b) No portion of the Property shall receive any RGAs under this Agreement unless and until any such portion of the Property has first secured City approval of its legislative development approval such as a Specific Plan (Government Code section 65450 *et seq.*), or, in the case where no Specific Plan is required by City, has secured City approval of a legislative approval that provides the detail similar to that otherwise required by the City's new "Traditional Residential" General Plan Land Use Designation (both situations collectively referred to in this Agreement as "**Plan Approval**"), and where such portion of the Property has had this Agreement recorded against it. No such Plan Approval shall be granted by City until complete and legally compliant environmental review and planning process pursuant to controlling law has taken place, and City approval and adoption of the Plan Approval, in City's sole and exclusive discretion, has taken place. Further, such Plan Approval shall set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. In other words, a legally compliant and City-approved and adopted Plan Approval on a portion of the Property (which Plan Approval must set forth the contents requirements of the Development Agreement Statute (*i.e.*, setting forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes)) is a prerequisite to such Property being eligible to receive any RGAs under this Agreement.

(c) The GMO sets maximums regarding City's issuance of RGAs and building permits. The maximums contained in the GMO relative to City's issuance of RGAs and building permits on an annual basis are referred to in this Agreement as the "**GMO Maximums.**" This Agreement conforms to the applicable GMO and its GMO Maximums, and this Agreement only invokes this Agreement's requirements regarding a Plan Approval's eligibility to apply for RGAs if compliance with all other aspects of controlling law has been secured, including without limitation, full CEQA and planning/zoning law compliance, and City's sole and exclusive discretion has been exercised and the Plan Approval has been adopted by City. This Section therefore sets forth the process, terms and conditions relative to a Plan Approval's eligibility to apply for (and applications relating to) RGAs and building permit issuance.

(d) In no event shall the sum total of Owner's Plan Approvals be eligible for more than 2,250 RGAs over the Term of this Agreement ("**Overall RGA Maximum**"). Further, in no event shall any or all of the Plan Approvals be eligible for more than the specific number of RGAs allocated by this Agreement on a yearly basis ("**Annual RGA Eligibility**"). These two numeric limitations, taken together with this Agreement's requirement that no RGA be issued

until at a minimum, a legally compliant Plan Approval is adopted, and this Agreement's requirement that such RGA will only take place during the Term of this Agreement, means that the Properties against which this Agreement is recorded might never secure (reach) the Overall RGA Maximum under this Agreement. For, example, if Plan Approvals amounting to 2,250 units are not secured by Properties during the Term of this Agreement, and/or once Plan Approval has been secured there is not enough time remaining under the Term of this Agreement to allow City to allocate the remaining RGAs to the Plan Approval under the then-applicable Annual RGA Eligibility, then the Properties will not receive the 2,250 Overall RGA Maximum under this Agreement. Despite this possibility, Owner shall nonetheless be obligated to perform the Swim Center Commitment set forth in this Agreement.

(e) Owner shall make application to City for RGAs ("**RGA Application(s)**") pursuant to the RGA Application attached hereto as *Exhibit C* to this Agreement and subject to the following terms and conditions:

(1) RGA Applications may be submitted by Owner to City during the following time periods:

(A) Anytime during normal business days and hours of City before, up to, and including the first (1st) Friday in January of any calendar year ("**January Cycle**") in which Owner meets the requirements for eligibility for RGAs established by this Agreement; and

(B) If Owner has not applied to City for all of Owner's then-applicable (for that calendar year) Annual RGA Eligibility by the close of the January Cycle of that calendar year, then, anytime during normal business days and hours of City after the January Cycle closes and before, up to, and including the first (1st) Friday in July of that same calendar year ("**July Cycle**") Owner may apply to City for the remainder of Owner's then-applicable (for that calendar year) Annual RGA Eligibility. For example, if in a particular calendar year Owner had an Annual RGA Eligibility under this Agreement of 125 RGAs, and Owner only sought 75 of those RGAs during the January Cycle of that calendar year, then Owner may apply to City during the July Cycle of that same calendar year for the remaining 50 RGAs of the Annual RGA Eligibility.

(2) Owner shall provide a separate RGA Application for each Plan Approval for which Owner seeks RGAs that calendar year. The total RGAs sought by Owner in any calendar year shall not exceed the total Annual RGA Eligibility for that calendar year set by this Agreement.

(3) Owner RGA Application(s) to City shall provide City with the information requested in the RGA Application form attached hereto as *Exhibit C* to this Agreement.

(4) After an RGA Application is submitted by Owner to City, the RGA Application may be amended by Owner if the amended RGA Application complies with all requirements of this Section 1.07, and is clearly labeled as an amendment.

(5) City shall respond to any and all RGA Application(s) submitted by Owner within sixty (60) days of the date of the close of the application period for the relevant cycle (January Cycle or July Cycle) of that same calendar year.

(f) The schedule below uses the terminology "first year," "second year," and so forth; those phrases are meant to mean that the "first year" is 2009. However, if a Plan Approval builds completely out and therefore secures all of the RGAs it can use for that Plan Approval, RGA allocation will stop until another Plan Approval is secured. That next Plan Approval may take years to secure. Therefore, the then-applicable next year allocation on the schedule would not take place until the year that the Plan Approval would be eligible to apply for RGAs. Or, comparatively, more than one Plan Approval might exist at any time, and yet the combination of Plan Approvals could never secure more than the applicable total Annual RGA Eligibility, nor could the combination of Plan Approvals ever exceed the Overall RGA Maximum. Therefore, subject to all of the requirements of this Agreement, including without limitation the other subdivisions of this Section 1.07, the schedule regarding the Annual RGA Eligibility shall be as follows:

(1) In the first year, City shall allocate any and all remaining RGAs then available, up to a maximum of 125 RGAs.

(2) In the second year, City shall allocate any and all RGAs then available, up to a maximum of 125 RGAs.

(3) In the third year, City shall allocate any and all RGAs then available, up to a maximum of 125 RGAs.

(4) In the fourth year, City shall allocate any and all RGAs then available up to a maximum of 125 RGAs.

(5) In the fifth year, City shall allocate any and all RGAs then available, up to a maximum of 175 RGAs.

(6) In the sixth year, City shall allocate any and all RGAs then available, up to a maximum of 175 RGAs.

(7) In the seventh year, City shall allocate any and all RGAs then available, up to a maximum of 175 RGAs.

(8) In the eighth year, City shall allocate any and all RGAs then available, up to a maximum of 175 RGAs.

(9) In the ninth year, City shall allocate any and all RGAs then available, up to a maximum of 175 RGAs.

(10) In the tenth year, City shall allocate any and all RGAs then available, up to a maximum of 225 RGAs.

(11) In the eleventh year, and for each calendar year thereafter, until such time as Owner has used the entirety of the Overall RGA Maximum, or such time as the Term of this Agreement has lapsed, whichever occurs first, City shall allocate any and all RGAs then available, up to a maximum of 225 RGAs.

(12) In conjunction with each allocation cycle, City shall determine the number of RGAs that City has allocated to Owner as of that date, and therefore the number of RGAs remaining under the Overall RGA Maximum.

(g) Section 1.14(a)(1) of this Agreement requires that City shall make available enough capacity from the existing wastewater treatment plant sufficient to provide the Ellis Specific Plan area development (and only the Ellis Specific Plan area development) with adequate wastewater treatment capacity for five hundred (500) residential units (Section 1.14(a)(1) refers to this as the "Ellis Initial Capacity"). Pursuant to this Section 1.07, the first year, the second year, the third year and the fourth year of Annual RGA Eligibility allocations (as those terms are set forth and defined in this Section 1.07), totaling 500 RGAs, shall only be allocated to, and only used within, the Ellis Specific Plan.

(h) Except as provided in Section 1.07(g) above (*i.e.*, the first 500 RGAs issued by City must go to the Ellis Specific Plan Approval), Owner may use any RGAs allocated under the Annual RGA Eligibility on any portion of the Owner's Property (Immediate Property or Other Properties) upon which Owner has secured a Plan Approval; Owner may not use any RGAs allocated under the Annual RGA Eligibility on any portion of the Owner's Property upon which a Plan Approval does not yet exist. If, when Owner makes an RGA Application for RGAs under the Annual RGA Eligibility, the subject Plan Approval (and related project) for which such RGA Application is made has remaining residential units of a number less than that year's applicable Annual RGA Eligibility, then Owner's RGA Application shall not request RGAs (under the Annual RGA Eligibility) in excess of such remaining residential units. If RGAs have already been allocated by City to a Plan Approval under the Annual RGA Eligibility but such allocated RGAs are not needed or wanted by Owner for that Plan Approval, such un-needed RGAs shall be returned by Owner to City and such returned RGAs shall not be counted toward the Overall RGA Maximum, and may be re-issued by City to any other Owner Plan Approval. Upon such re-issue of RGAs by City to another Plan Approval, such re-issued RGAs shall be counted toward the Overall RGA Maximum. Further, once RGAs have been allocated to a Plan Approval under the Annual RGA Eligibility but are not needed or wanted for that Plan Approval and are therefore returned by Owner to City pursuant to the text above, if no other Plan Approval then currently exists, then such returned RGAs shall not be transferable by Owner to another developer or project that does not qualify under this Agreement (again, such returned RGAs shall not be counted by City against the Overall RGA Maximum and shall be available for future City allocation to Owner consistent with this Section above). Further, if before allocation of RGAs to a Plan Approval (at least ten (10) days prior to the application deadline for second cycle (July), Owner notifies City (in writing) of Owner's willingness (such Owner willingness being Owner's sole and exclusive discretion) to receive less than the full Annual RGA Eligibility that Owner otherwise has a right to receive from City under this Agreement ("**Un-Allocated RGAs**"), City shall have the right to use the Un-Allocated RGAs as City sees fit, including without limitation issuing the Un-Allocated RGAs to other (non-Owner) projects, pursuant to City's sole and

exclusive discretion. Such Un-Allocated RGAs shall not be counted toward the Overall RGA Maximum.

(i) RGAs allocated under the Annual RGA Eligibility shall not expire during the Term of this Agreement. If all or any part of the RGAs allocated to Owner are not used by Owner in any one calendar year, said unused RGAs shall be available for use by Owner in any subsequent years remaining within the Term.

1.08 Building Permits.

(a) Property against which this Agreement is recorded shall receive Building Permits only as provided by this Agreement (and any Memorandum of Assignment applicable to such Property).

(b) Owner shall notify City of the calendar year in which Owner will be ready to commence construction of the development(s) approved in a Plan Approval(s).

(c) Upon confirmation by City that Owner is in fact ready to start such construction, then commencing on January 1st of said calendar year designated by Owner, the following shall apply:

(1) For a Property that has secured Plan Approval and is qualified to receive RGAs under this Agreement, City shall reserve building permits for that Property for that calendar year in the same number and amount as the number and amount of RGAs that Owner has an eligibility right to receive in that same calendar year under this Agreement (*i.e.*, the Annual RGA Eligibility) ("**Reserved Building Permits**"). Owner alone shall distribute such Reserved Building Permits among the applicable Plan Approvals as Owner determines in its sole and exclusive discretion (taking into consideration applicable Memorandums of Assignment). So, for example, if, under the applicable Annual RGA Eligibility, Owner had Property or Properties that had a right to receive 125 RGAs that calendar year, then City would reserve 125 building permits for Owner in that same calendar year, and Owner would then distribute such Reserved Building Permits among the applicable Plan Approvals as Owner determines in its sole and exclusive discretion (taking into consideration applicable Memorandums of Assignment).

(2) Notwithstanding (1) above, in any calendar year in which the Property would receive fewer than 125 building permits that calendar year from City (because fewer than 125 building permits are available), City shall nonetheless reserve 125 building permits for Owner, unless such 125 building permits are not available under the GMO Maximums, in which case City shall reserve for Owner all building permits (fewer than 125) then available under the GMO Maximums.

(3) Notwithstanding any of the foregoing, if at any time, but not less than ten (10) days prior to August 31st, Owner notifies City's Chief Building Official of Owner's decision (in Owner's sole and exclusive discretion) to receive fewer than the building permits that Owner otherwise has a right to receive from City under this Agreement ("**Un-Issued Building Permits**"), City shall have the right to use the Un-Issued Building Permits as City sees fit, including without limitation issuing the Un-Issued Building Permits to other (non-Owner)

projects, pursuant to City's sole and exclusive discretion. Such Un-Issued Building Permits shall not be counted as issued to Owner that year.

(4) In addition to the building permits reserved by this Section, Owner may seek building permits from City on a first come, first served basis.

(5) Owner shall make application to City for all or any part of such Reserved Building Permits by end of business on September 30th of each calendar year; Owner shall lose its rights to those Reserved Building Permits that Owner has not made application to City for by end of business on September 30th of such calendar year. On October 1st of each calendar year such Reserved Building Permits to which Owner has lost its rights shall revert back to City for issuance by City in City's sole and exclusive discretion. Such unclaimed Building Permits shall not be counted as issued to Owner that year.

(6) Notwithstanding any other provision of this Agreement to the contrary, all building permits sought by Owner and issued by City through the calendar year 2013 under this Agreement shall exclusively be issued to, and only used within, the Ellis Specific Plan area. However, upon a request by Owner, the City Council of City may consider a request to waive all or any portion of the foregoing requirement. The City Council's decision regarding such request shall be in the sole and exclusive discretion of the City Council; Owner hereby waives any right to challenge judicially any such City Council decision on such Owner request.

1.09 Significant Actions by Third Parties.

(a) Owner shall be responsible for the acquisition of permits, approvals, easements and services required to serve the Property and Plan Approval from all non-City providers of utilities at Owner's cost. Owner shall also be responsible for coordinating with any non-City providers of utilities to ensure the proper installation and construction of non-City utilities in accordance with the Applicable Law. The provision of all such services shall be subject to City approval, which City approval shall be subject to Good Faith and Fair and Expeditious Dealing.

(b) At Owner's sole discretion and in accordance with Owner's construction schedule, Owner shall apply for such other permits and approvals as may be required by other private and public and quasi-public entities in connection with the development of, or the provision of services to, the Property. City shall cooperate with Owner in Good Faith and Fair and Expeditious Dealing, at no cost to City, in Owner's efforts to obtain such permits and approvals and City shall, from time to time (at the request of Owner), use its Good Faith and Fair and Expeditious Dealing to enter into binding agreements with any such other entity as may be necessary to ensure the timely availability of such permits and approvals to Owner, provided such permits and approvals are mutually determined by City and Owner to be reasonably necessary or desirable and are consistent with Applicable Law. In the event that any such permit or approval as set forth above is not obtained within three (3) months from the date application is deemed complete by the appropriate entity, and such circumstance materially deprives Owner of the ability to proceed with development of the Property or any portion thereof, or materially deprives City of a bargained-for public benefit of this Agreement, then, in such case, and at the

election of Owner, Owner and City shall meet and confer with the objective of attempting to mutually agree on alternatives, Owner Approvals, and/or an amendment to this Agreement to allow the development of the Property to proceed with each Party substantially realizing its bargained-for benefit there from.

(c) City and Owner acknowledge and agree that City may from time to time enter into (with Good Faith and Fair and Expeditious Dealing) joint exercise of power agreements or memoranda of understanding with other governmental agencies consistent with and to further the purposes of this Agreement.

1.10 Amendment of this Agreement; Inclusion of Owner Approvals into this Agreement.

(a) This Agreement may be amended from time to time in accordance with California Government Code section 65868 and the Enabling Resolution, and upon the mutual written consent of City and Owner, with City costs payable by the Owner. Owner may seek City interpretation regarding one or more of the terms and conditions of this Agreement to determine whether or not an amendment is needed.

(b) This Agreement anticipates and provides the process and rules governing subsequent Owner Approvals (including without limitation Plan Approvals). No amendment of this Agreement shall be required in connection with City processing and/or approval of any such Owner Approval for the Property. Any such Owner Approval that is approved by City and becomes part of the Applicable Law pursuant to the requirements of this Agreement shall be vested into by Owner and City, and shall become a part of this Agreement as if set forth herein in full. City shall not process or approve any Owner Approval unless Owner requests such process and approval.

1.11 Annexation.

(a) As to the Property or any portion thereof, the following shall apply:

(1) From time to time, during the Term of this Agreement, certain portions of the Property may be outside City's current corporate boundary. Such portions are collectively referred to in the singular as an "**Annexation Property.**"

(2) Within ninety (90) days after a Plan Approval for an Annexation Property, or as soon thereafter as a "**Plan for the Provision of Services**" (as that phrase is defined by the law controlling the San Joaquin County Local Agency Formation Commission ("**LAFCO**")) and all other materials required by controlling law and/or requested by LAFCO can be prepared and completed relating to such Annexation Property, City shall consider a "**Resolution of Application**" to LAFCO requesting annexation of such Annexation Property, and all other relevant property determined by City in its sole and exclusive discretion to be appropriate. City shall submit each such Resolution of Application, Plan for the Provision of Services and other material required by controlling law and/or requested by LAFCO. City may process any such annexation of Annexation Property concurrently with other Owner Approvals.

(3) City shall use Good Faith and Fair and Expeditious Dealing to cause the completion of such annexation of Annexation Property subject to all applicable requirements of law. If such annexation of Annexation Property cannot be accomplished without conditions that are unacceptable to Owner then, at Owner's request, City shall terminate or request termination of the proceedings, as appropriate, with respect to the Annexation Property.

(4) Owner shall pay City's reasonable costs relating to all City actions taken pursuant to this Section 1.11, including reasonable consultant costs, and including such LAFCO fees, costs and charges relating to such annexation(s) that LAFCO charges to City.

(5) If City's first Resolution of Application to LAFCO requesting annexation of an Annexation Property is denied by LAFCO, then the Parties shall continue to work together to secure such annexation in such a manner as they may mutually agree, including annexing only portions of the Annexation Property at different times until such time as all of the Annexation Property is annexed to City. To the extent that the law requires a date to be set forth within this Agreement by which annexation of Annexation Property must be accomplished, that date shall be two (2) days prior to the termination of the Term of this Agreement.

(b) Owner shall be responsible for the City's processing costs regarding actions taken by City pursuant to this Section 1.11.

1.12 Memorandum of Assignment / Operative.

(a) Provided all of the requirements of this Section and this Agreement have been met, the Property to which this Agreement may be recorded in the future shall include all of the property within the City's then-existing Sphere of Influence. Property against which this Agreement is recorded shall receive RGAs and Building Permits only as provided by this Agreement and the below-described "**Memorandum of Assignment**".

(b) As to any Property, this Agreement may only be recorded against such Property at such time and date as all of the following have occurred:

(1) The Property is known and its legal description prepared ("**Subject Property**").

(2) Owner has acquired a legal or equitable interest in such Subject Property;

(3) Such Subject Property is included within the City's Sphere of Influence; and

(4) The City Council has determined that such Subject Property has satisfied the requirements of subdivisions (1), (2) and (3) above and has authorized its designated agent to sign the "**City Authorization to Record Development Agreement**" set forth in *Exhibit D* of this Agreement. Owner shall record the City Authorization to Record Development Agreement with the Memorandum of Assignment substantially in the form set forth in *Exhibit E* to this Agreement against such Subject Property. The recorded Memorandum of Assignment shall grant to the Subject Property all rights, responsibilities, benefits and burdens of this

Agreement except as this Agreement relates to the Overall RGA Maximum and the Annual RGA Eligibility. As to the Overall RGA Maximum and the Annual RGA Eligibility, the Memorandum of Assignment shall designate the maximum amount of RGAs otherwise available under this Agreement that are being allocated to such Subject Property. Such Subject Property shall not be allowed to use or have any claim under this Agreement to the Overall RGA Maximum or Annual RGA Eligibility in excess of such expressed maximum amounts in such Memorandum of Assignment. Such Memorandum of Assignment may be amended and then re-recorded to reflect any new allocation amount set forth in a new Memorandum of Assignment. Any such RGAs that are so allocated by such Memorandum of Assignment to such Subject Property that are unused by such Subject Property shall be returned to City and City shall add back such unused RGAs into the Overall RGA Maximum. Such Memorandum of Assignment shall likewise set forth the overall total and annual total of building permits that shall be reserved by City for such Subject Property. As set forth in Section 1.07(h) of this Agreement, such Subject Property shall not have a claim to any RGAs or building permits provided by this Agreement (including without limitation the Overall RGA Maximum or Annual RGA Eligibility) beyond that expressly set forth in the Memorandum of Assignment or amended Memorandum of Assignment. As relates to the Ellis Specific Plan Property, the Memorandum of Assignment recorded against said Property shall provide an overall amount of RGAs that is identical to the number of residential lots set forth in the approved subdivision maps(s) for said Ellis Specific Plan Property, although the number of RGAs available on an annual basis from the Annual RGA Eligibility shall be determined by Owner in his sole and exclusive discretion except as provided in Section 1.07(h) of this Agreement.

(c) As used in this Agreement, the term "**Operative**" shall have that meaning set forth in Government Code section 65865.

(1) With respect to the Immediate Property, this Agreement shall become Operative upon the occurrence of the recording of this Agreement against the Immediate Property and the annexation of the Immediate Property to the City within the Term of this Agreement.

(2) With respect to an Other Property, this Agreement shall become Operative upon the occurrence of the recording of this Agreement against the Other Property and the annexation of the Other Property to the City within the Term of this Agreement.

1.13 Adequate Water Supply.

(a) Pursuant to the water supply assessment ("**WSA**") by City relating to the potential development this Agreement addresses (including without limitation the water assessment prepared in the EIR referenced in Recital paragraph F of this Agreement), adequate water supply, capacity and treatment (collectively, "**Water Capacity**") is known and will be available during the Term of this Agreement for the potential maximum development that may occur pursuant to this Agreement. Therefore, City shall make such Water Capacity available to Owner for such potential development during the Term of this Agreement. Neither City nor Owner shall take any actions, including without limitation, approval by City of any new development after the Effective Date of this Agreement, that would impair or impede that Water Capacity nor otherwise make the Water Capacity unavailable during the Term of this Agreement

for the potential maximum development that may occur pursuant to this Agreement. For residential uses, such Water Capacity shall be made available in accordance with Owner's building permit schedule for residential units as listed in this Development Agreement. A water supply verification shall take place at the subdivision map approval stage as required by such law. If for any reason, despite the City's best efforts, such Water Capacity is not available from surface water supplies for Owner's use on such development when needed, then the following shall apply:

(1) City shall pursue interim measures to satisfy such Water Capacity requirements, including without limitation, City's use of groundwater.

(2) If for any reason, despite City's best efforts, such interim measures are either not available, or are available but not in quantities necessary to fully satisfy such Water Capacity requirements, then Owner may, at Owner's sole and exclusive discretion, upfront the cost of design, construction, operation and maintenance of ground water well, pump station, piping network and appurtenances to City (collectively, "**Additional Well**") to meet the Owner's water needs until such time as City-provided permanent Water Capacity is available. Owner's development will not be served from the Additional Well until construction of the Additional Well is completed and accepted by the City. Once the City-provided permanent Water Capacity is made available to Owner's Property, Owner's need for the Additional Well may be eliminated. In such a circumstance (where Owner's need for the Additional Well is later eliminated because City-provided permanent Water Capacity is available), City may use the Additional Well for City purposes, provided City reimburses Owner for the costs to Owner of the design, construction, operation and maintenance (of the Additional Well). Additionally, Owner may use such Additional Well to provide irrigation water for the public areas, rights-of-way, parks, special landscape features, open space, and anywhere else where irrigation is required to sustain plant species.

(b) Owner shall pay its pro rata share (fair share) of the costs of providing such Water Capacity to any such potential development of the Immediate Property and the Other Properties. More specifically, the costs related to the treatment aspects of the Water Capacity provided to the development within a particular Plan Approval shall be spread and pro-rated over the number of building permits likely to be issued for the development within such particular Plan Approval, and such pro-rated amount shall be paid upon the issuance of each building permit for such development with such Plan Approval for the full cost of water supply. The costs related to the transmission aspects of the Water Capacity provided to the development within a particular Plan Approval shall be paid by those impact fees (or other municipal financing mechanism mutually acceptable and agreeable to the Parties) that are established in an adopted finance plan such as a Finance Implementation Plan ("**FIP**") relating to such development within a particular Plan Approval.

1.14 Wastewater Treatment and Conveyance Capacity.

(a) Wastewater Treatment Capacity.

(1) Upon the Effective Date of this Agreement, and in accordance with the building permit schedule allocated to Owner by this Agreement, City shall make available

capacity from the existing City wastewater treatment plant sufficient to provide the Ellis Specific Plan area development with adequate wastewater treatment capacity for five hundred (500) single-family detached residential units ("**Ellis Initial Capacity**"). Owner shall pay the prevailing wastewater treatment plant impact fees at the time of such building permit issuance for Ellis Initial Capacity in accordance with the City fees imposed on development for the existing Phase I Wastewater Treatment Plant Expansion. City shall not be obligated to advance funds for Additional Capacity or Expansion, except to the extent that such funds have already been collected by City for such Additional Capacity or Expansion.

(2) Beyond the Ellis Initial Capacity referenced in subdivision (a) of this Section 1.14, upon each Plan Approval within the Overall RGA Maximum, the project contained within such Plan Approval shall receive that wastewater treatment capacity, and treatment and transmission capacity ("**Additional Capacity**") needed to adequately service said Plan Approval, with said Additional Capacity coming from the City's existing capacity at the existing wastewater treatment plant or "**Expansion**" of the existing wastewater treatment plant. For the purposes of this Agreement, "Expansion" shall mean that expansion of the existing treatment capacity of the existing wastewater treatment plant, which Expansion will increase the treatment capacity of the plant from the existing approximately 10.2 million gallons per day of treatment capacity to the approximately 16 million gallons per day of treatment capacity. Such Expansion may be done in incremental phases. Owner shall pay its fair share (pro rata share) of the costs of the Expansion (taking into account all users that will use the Expansion) through a form of municipal financing or other mechanism acceptable and agreeable to the Parties. City shall take such measures as needed to ensure that other public and private development projects proposing to utilize the Expansion shall pay their fair share of the funding needed to construct, maintain and operate the Expansion. Owner's above-described funding obligations shall be coordinated with the other public and private development projects to ensure that such monies are collected from Owner and other public and private development projects at approximately the same time. If the required funding from others (other users, other development projects, etc.) is not available for the phase of Expansion needed to provide the Additional Capacity Owner needs when Owner needs it, or if some funding from others is available but is not adequate to fund the phase of Expansion needed to provide said Additional Capacity Owner needs when Owner needs it, then, at Owner's sole and exclusive discretion, Owner may pay the cost of such phase of Expansion needed to provide such Additional Capacity ("**Owner Funded Phase**"); in such a case, Owner shall be reimbursed for that portion of the Owner Funded Phase that exceeds Owner's Additional Capacity needs. Except for responsibilities provided for in applicable CIPs and/or other developments to pay their fair share, City shall not be obligated to advance funds for Additional Capacity Expansion.

(b) Conveyance Capacity.

(1) Owner shall be allowed to use then existing capacity in then-existing conveyance systems. If either increasing the conveyance capacity in the existing wastewater lines to provide adequate conveyance capacity to such area of development within a Plan Approval is needed, or if constructing new wastewater lines to provide adequate conveyance capacity to such area of development within a Plan Approval is needed (collectively, "**Conveyance Expansion**"), then such development within such Plan Approval shall be responsible for its fair share (proportional) of the costs of the Conveyance Expansion. The

improvements to the existing conveyance system or construction of new wastewater lines (i.e., the Conveyance Expansion) will be completed by City in accordance with City's approved Wastewater Master Plan.

(2) City shall take such measures as needed to ensure that other public or private development projects proposing to use the Conveyance Expansion shall pay their fair share (proportional) of the costs of such Conveyance Expansion. If additional funding from such other development projects is not available prior to Owner's need for the Conveyance Expansion, Owner, in its sole and exclusive discretion, may request City to complete construction of the Conveyance Expansion (in multiple phases if requested by Owner). The construction of, and payment by Owner for, such owner conveyance improvements accomplished in multiple phases shall be in accordance with Owner's needs. In such event, no other development will have right to this new or expanded conveyance capacity available after completion of the particular construction phase. Wastewater conveyance connection will be available to Owner only after the required improvements are completed, or accepted by, City. Wastewater conveyance capacity shall be provided from the Corral Hollow sewer line and other western sewer lines as set forth in the Wastewater Master Plan Corral Hollow Sewer Analysis for the maximum development authorized by this Agreement. Except for responsibilities provided for in applicable CIPs and/or other developments to pay their fair share, City shall not be obligated to advance funds for conveyance improvements.

1.15 Schools.

(a) Owner has entered into a Memorandum of Understanding with the Tracy Unified School District.

(b) Prior to the first residential building permit issuance, Owner shall execute a school facilities mitigation agreement with the Jefferson School District to mitigate the impact of the Ellis Specific Plan on Jefferson School District facilities.

1.16 Ellis Specific Plan Parks.

(a) Owner shall provide and dedicate to City parks pursuant to the four (4) acres per thousand formula required by the Ellis Specific Plan and Applicable Law ("**Park Requirements**"). No additional park dedications, in lieu fees or other park-related requirements shall be imposed by City on Owner or the Ellis Specific Plan property beyond the Park Requirements.

(b) The timing of the dedication to City of Ellis Specific Plan parks and the construction of Ellis Specific Plan park improvements shall be determined by City at the time of City approval of subdivision map(s) for the Ellis Specific Plan property.

1.17 Future Impact Fees, Taxes and Assessments; Nexus.

(a) During the Term of this Agreement, only those impact fees, taxes, assessments and other charges that are established in an adopted FIP for the particular Property shall apply to the particular Property.

(b) Except as provided in this Agreement (including without limitation, Sections 1.01), this Agreement is not intended to change or affect either Parties' rights or obligations regarding the over-sizing of improvements, services and/or facilities beyond the impacts of the Property.

ARTICLE 2
ASSIGNMENT, DEFAULT, ANNUAL REVIEW,
TERMINATION, LEGAL ACTIONS

2.01 Covenants Run With The Land.

(a) This Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants, obligations, benefits and burdens shall be binding upon and inure to the Parties and their respective heirs, successors (by merger, consolidation, or otherwise), assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Property, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns (collectively, "Assignee").

(b) Additionally, this Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants and obligations, shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Other Properties or any lot, parcel or any portion thereof, or any interest therein, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns (also, collectively, "Assignee").

(c) Upon assignment, in whole or in part, and the express written assumption by the Assignee of such assignment, of Owner's rights and interests under this Agreement, Owner shall be released from its obligations with respect to the Property, or any lot, parcel, or portion thereof so assigned to the extent arising subsequent to the date of such assignment. A default by any Assignee shall only affect that portion of the Property owned by such Assignee and shall not cancel or diminish in any way Owner's rights hereunder with respect to the assigned portion of the Property not owned by such Assignee. The Assignee shall be responsible for the reporting and annual review requirements relating to the portion of the Property owned by such Assignee, and any amendment to this Agreement between City and Assignee shall only affect the portion of the Property owned by such Assignee.

2.02 Defaults.

(a) Any failure by City or Owner to perform any material term or provision of this Agreement, which failure continues uncured for a period of sixty (60) days following written notice of such failure from the other Party (unless such period is extended by written mutual consent), shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which such alleged failure satisfactorily may be cured. If the nature of the alleged

failure is such that it cannot reasonably be cured within such 60-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period.

(b) No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of notice and opportunity to cure shall nevertheless be a prerequisite to the enforcement or correction of any default.

(c) During any cure period specified under this Section 2.02 and during any period prior to any delivery of notice of failure or default, the Party charged shall not be considered in default for purposes of this Agreement. If there is a dispute regarding the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter and pending its resolution or formal termination of the Agreement as provided herein.

(d) City will continue to process in good faith development applications during any cure period, but need not approve any such application if it relates to a development proposal on the Property with respect to which there is an alleged default hereunder.

(e) In the event either Party is in default under the terms of this Agreement, the non-defaulting Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies, and/or (iii) pursue judicial remedies. In no event shall City modify this Agreement as a result of a default by Owner except in accordance with the provisions of Section 1.10 above.

(f) Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default by the other Party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder or to seek specific performance. Except for situations or events involving the City's gross negligence or willful misconduct, neither City nor its officers, agents, or employees shall be liable in damages for any breach or violation of this Agreement, except for attorneys' fees as provided in Section 3.05(a), it being expressly understood and agreed that the only legal remedies available to Owner for a breach or violation of this Agreement by City shall be a legal action in mandamus, specific performance, or other injunctive or declaratory relief to enforce the provisions of this Agreement. Nothing in this section shall be deemed to limit either Party's rights under the Tort Claims Act. For purposes of instituting a legal action under this Agreement, any City Council determination under this Agreement shall be deemed a final agency action.

2.03 Annual Review.

(a) The Enabling Resolution provides for annual review of Owner's good faith compliance with the terms of this Agreement. Each year during the term of this Agreement, City shall initiate the annual review by written notice to Owner. Upon receipt of such written notice, Owner shall comply with such requirements of the Enabling Resolution and shall furnish to City a report demonstrating good faith compliance by Owner with the terms of this Agreement.

(b) Following any such annual review, if Owner is determined to be in good faith compliance with the terms of this Agreement, City shall furnish Owner, upon Owner's request, a certification of compliance in recordable form.

(c) Following any such annual review, if Owner is determined to not be in good faith compliance with the terms of this Agreement, City shall furnish to Owner a notice of noncompliance, which shall be deemed a notice of default and shall commence the cure period set forth in Section 2.02 above.

(d) If City fails to either (1) hold the annual review meeting, or (2) notify Owner in writing (following the date the review meeting is to be held) of the City's determination as to compliance or noncompliance with the terms of the Agreement, such failure shall be deemed an approval by City of Owner's current compliance with the terms of this Agreement.

(e) In addition to the annual review provided for in this Section 2.03, City may investigate or evaluate from time to time during the course of any given year, and regardless of whether such investigation or evaluation takes place as part of the annual review, any subject matter that is properly the subject of an annual review.

2.04 Force Majeure Delay, Extension of Times of Performance.

(a) In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental entities other than City, its departments, agencies, boards and commissions, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this Agreement whether instituted by Owner, City, or any other person or entity) (each a "Force Majeure Event").

(b) Either Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, either Party may take action as permitted under this Agreement.

2.05 Legal Actions.

(a) In the event of any Third Party Challenge, the Parties shall agree to mutually cooperate with each other in the defense of any such challenge.

(b) City shall tender the complete defense of any such Third Party Challenge to Owner ("Tender"), and upon acceptance of such Tender by Owner, Owner shall control all

aspects of the defense and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge.

(c) If City wishes to assist Owner when Owner has accepted the Tender, City may do so if Owner consents to such assistance and if City pays its own attorney fees and costs (including related court costs).

(d) Should Owner refuse to accept such a Tender, City may defend such Third Party Challenge, and if City so defends, Owner shall pay City's attorney fees and costs (including related court costs).

(e) If any part of this Agreement (including, without limitation, any part of the exhibits and attachments thereto) or any Owner Approval is held by a court of competent jurisdiction to be invalid, City shall: (1) use its best efforts to sustain and/or re-enact that part of this Agreement and/or Owner Approval; and (2) take all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement, and then adopting or re-enacting such part of this Agreement and/or Owner Approval as necessary or desirable to permit execution of this Agreement and/or Owner Approval. If despite such efforts such part of this Agreement and/or Owner Approval cannot be cured and/or re-enacted or re-adopted, and such invalidity or unenforceability would have a material adverse impact on the Owner, by depriving Owner of a material benefit of this Agreement, such as the benefit of the Overall RGA Maximum and/or Annual RGA Eligibility, then Owner may terminate this Agreement by providing written notice thereof to the City, and upon such termination, Owner shall no longer be subject to the benefits and burdens of this Agreement, including without limitation the Swim Center Commitment, Swim Center Land Dedication, Overall RGA Maximum and/or Annual RGA Eligibility.

ARTICLE 3 **GENERAL PROVISIONS**

3.01 Definitions.

(a) To the extent that any capitalized terms contained in this Agreement or its Exhibits are not defined below, then such terms shall have the meaning otherwise ascribed to them in this Agreement and its Exhibits and/or the Applicable Law.

(b) As used in this Agreement and its Exhibits, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:

(1) "Additional Capacity" shall have that meaning set forth in Section 1.14(a)(2) of this Agreement.

(2) "Additional Well" shall have that meaning set forth in Section 1.13(a)(2) of this Agreement.

(3) "Agreement" shall mean this Development Agreement between City and Owner.

(4) "**Agreement Effective Date**" shall have the meaning set forth in Section 1.06(a) of this Agreement.

(5) "**Annexation Effective Date**" shall mean that date upon which all of the following have occurred: the annexation of the property contained within the Ellis Specific Plan (including the Swim Center) has been approved by LAFCO and the Conducting Authority, the annexation approvals have taken effect under controlling law, the applicable statute of limitations has run on those LAFCO and Conducting Authority annexation approvals without a lawsuit being filed within that statutory limitations period, or if a lawsuit has been filed within that statutory limitations period, that the defendant and real party have prevailed in the lawsuit, or the Annexation is otherwise determined legal and effective.

(6) "**Annexation Property**" shall have the meaning set forth in Section 1.11(a)(1) of this Agreement.

(7) "**Annual RGA Eligibility**" shall have the meaning set forth in Section 1.07(d) of this Agreement.

(8) "**Applicable Law**" shall have that meaning set forth in Section 1.03 of this Agreement.

(9) "**Approving Ordinance**" shall have the meaning set forth in Recital paragraph N of this Agreement.

(10) "**Assignee**" shall have the meaning set forth in Section 2.01(a) and (b) of this Agreement.

(11) "**CEQA**" shall have that meaning set forth in Recital paragraph F of this Agreement.

(12) "**Certificate of Occupancy**" shall mean a certificate issued or final inspection approved by the City authorizing occupancy of a residential unit.

(13) "**City**" shall have that meaning set forth in the preamble of this Agreement.

(14) "**City Authorization to Record Development Agreement**" shall have the meaning set forth in Section 1.12(b)(4) and *Exhibit D* of this Agreement.

(15) "**City Response**" shall have the meaning set forth in Section 1.05(b) of this Agreement.

(16) "**City Swim Center Contribution**" shall have the meaning set forth in Section 1.01(c) of this Agreement.

(17) "**Claims**" shall have the meaning set forth in Section 3.04 of this Agreement.

(18) "**Conceptual Design**" shall have the meaning set forth in Section 1.01(d) of this Agreement.

(19) "**Construction Codes**" shall have the meaning set forth in Section 1.03(a)(5) of this Agreement.

(20) "**Conveyance Expansion**" shall have the meaning set forth in Section 1.14(b)(1) of this Agreement.

(21) "**Development Agreement Statute**" shall have the meaning set forth in the preamble of this Agreement.

(22) "**EIR**" shall have the meaning set forth in Recital paragraph F(3) of this Agreement.

(23) "**Ellis Approvals**" shall have the meaning set forth in Recital paragraph F(4) of this Agreement.

(24) "**Ellis Initial Capacity**" shall have the meaning set forth in Section 1.14(a)(1) of this Agreement.

(25) "**Ellis Specific Plan**" shall have the meaning set forth in Recital paragraph D of this Agreement.

(26) "**Enabling Resolution**" shall have the meaning set forth in the preamble of this Agreement.

(27) "**Existing City Laws**" shall have the meaning set forth in Section 1.03(a)(3) of this Agreement.

(28) "**Expansion**" shall have the meaning set forth in Section 1.14(a)(2) of this Agreement.

(29) "**FIP**" shall have the meaning set forth in Section 1.13(b) of this Agreement.

(30) "**Force Majeure Event**" shall have the meaning set forth in Section 2.04(a) of this Agreement.

(31) "**General Plan**" shall have the meaning set forth in Recital paragraph D of this Agreement.

(32) "**General Plan EIR**" shall have the meaning set forth in Recital paragraph F(1) of this Agreement.

(33) "**GMO**" shall have the meaning set forth in Recital paragraph I of this Agreement.

(34) **"GMO Maximums"** shall have the meaning set forth in Recital paragraph I and Section 1.07(c) of this Agreement.

(35) **"Good Faith and Fair and Expeditious Dealing"** shall have the meaning set forth in Section 1.02(c) of this Agreement.

(36) **"Immediate Property"** shall have the meaning set forth in Recital paragraph J of this Agreement.

(37) **"January Cycle"** shall have the meaning set forth in Section 1.07(e)(1)(A) of this Agreement.

(38) **"July Cycle"** shall have the meaning set forth in Section 1.07(e)(1)(B) of this Agreement.

(39) **"LAFCO"** shall have the meaning set forth in Section 1.11(a)(2) of this Agreement.

(40) **"Legal Effect"** shall mean that the ordinance, resolution, permit, license or other grant of approval (collectively, "permit") in question, has been adopted by City and that all applicable administrative appeal periods and statutes of limitations have run and that the permit has not been overturned or otherwise rendered without legal and/or equitable force and effect by a court of competent jurisdiction or other tribunal with final and binding decision authority.

(41) **"Mandated New City Law(s)"** shall have the meaning set forth in Section 1.05(e) of this Agreement.

(42) **"Meet and Confer Period"** shall have the meaning set forth in Section 1.05(b) of this Agreement.

(43) **"Memorandum of Assignment"** shall have the meaning set forth in Section 1.12(b)(4) and *Exhibit E* of this Agreement.

(44) **"New City Law(s)"** shall have the meaning set forth in Section 1.05(a) of this Agreement.

(45) **"New Development Swim Center Contribution"** shall have the meaning set forth in Section 1.01(c) of this Agreement.

(46) **"Notice of New Law(s)"** shall have the meaning set forth in Section 1.05(b) of this Agreement.

(47) **"Objection to New City Law(s)"** shall have the meaning set forth in Section 1.05(b) of this Agreement.

(48) **"Operative"** shall have the meaning set forth in Section 1.12(c) of this Agreement.

(49) **"Other Property"** or **"Other Properties"** shall have the meaning set forth in Recital paragraph J of this Agreement.

(50) **"Overall RGA Maximum"** shall have the meaning set forth in Section 1.07(d) of this Agreement.

(51) **"Owner"** shall have that meaning set forth in the preamble of this Agreement.

(52) **"Owner Approvals"** shall have the meaning set forth in Section 1.03(a)(2) of this Agreement, and includes without limitation the Plan Approvals and the Ellis Approvals.

(53) **"Owner Swim Center Contribution"** shall have the meaning set forth in Section 1.01(a) and *Exhibit B* of this Agreement.

(54) **"Owner Funded Phase"** shall have that meaning set forth in Section 1.14(a)(2) of this Agreement.

(55) **"Park Requirements"** shall have the meaning set forth in Section 1.16(a) of this Agreement.

(56) **"Party"** and **"Parties"** shall have the meaning set forth in the preamble of this Agreement.

(57) **"Plan Approval"** is one type of Owner Approval and shall have the meaning set forth in Section 1.07(b) of this Agreement.

(58) **"Plan for the Provision of Services"** shall have that meaning set forth in Section 1.11(a)(2) of this Agreement.

(59) **"Planning Commission"** shall have the meaning set forth in Recital paragraph C of this Agreement.

(60) **"Police Powers"** shall have the meaning set forth in the preamble of this Agreement.

(61) **"Processing Fees"** shall mean fees charged by the City which represent the costs to City for City staff (including consultants) time and resources spent reviewing and processing applications for Owner Approvals, as governed by Government Code section 66014.

(62) **"Property"** shall have the meaning set forth in Recital paragraph J of this Agreement.

(63) **"Reserved Building Permits"** shall have the meaning set forth in Section 1.08(c)(1) of this Agreement.



(64) "**Residential Growth Allotments**" or "**RGAs**" shall have the meaning set forth in the GMO in effect on July 1st, 2008.

(65) "**Resolution of Application**" shall have the meaning set forth in Section 1.11(a)(2) of this Agreement.

(66) "**RGA Application(s)**" shall have the meaning set forth in Section 1.07(e) of this Agreement.

(67) "**Serpa Swim Center**" shall have the meaning set forth in Section 1.01(e) of this Agreement.

(68) "**South Schulte EIR**" shall have the meaning set forth in Recital paragraph F(2) of this Agreement.

(69) "**South Schulte EIR Settlement**" shall have the meaning set forth in Recital paragraph F(2) of this Agreement.

(70) "**South Schulte Specific Plan**" shall have the meaning set forth in Recital paragraph D of this Agreement.

(71) "**Subdivision Document**" shall have the meaning set forth in Section 1.06(d) of this Agreement.

(72) "**Subject Property**" shall have the meaning set forth in Section 1.12(b)(1) and *Exhibit E* of this Agreement.

(73) "**Subject Property Annual Building Permit Total**" shall have the meaning set forth in *Exhibit E* of this Agreement.

(74) "**Subject Property Annual RGA Eligibility Total**" shall have the meaning set forth in *Exhibit E* of this Agreement.

(75) "**Subject Property Building Permit Total**" shall have the meaning set forth in *Exhibit E* of this Agreement.

(76) "**Subject Property RGA Total**" shall have the meaning set forth in *Exhibit E* of this Agreement.

(77) "**Swim Center**" shall have the meaning set forth in Section 1.01 of this Agreement.

(78) "**Swim Center Advance Costs**" shall have the meaning set forth in *Exhibit B* of this Agreement.

(79) "**Swim Center Commitment**" shall have the meaning set forth in Recital paragraph C of this Agreement.



(80) "Swim Center Land Dedication" shall have the meaning set forth in Section 1.01(b) of this Agreement.

(81) "Swim Center Funds" shall have the meaning set forth in Section 1.01(c) of this Agreement.

(82) "Swim Center Funds Account" shall have the meaning set forth in *Exhibit B* of this Agreement.

(83) "Swim Center Payment Protocol" shall have the meaning set forth in Section 1.01(a) of this Agreement.

(84) "Tender" shall have the meaning set forth in Section 2.05(b) of this Agreement.

(85) "Term" shall have the meaning set forth in Section 1.06(a) of this Agreement.

(86) "Third Party Challenge" shall have the meaning set forth in Section 1.06(b) of this Agreement.

(87) "Two-Year Period" shall have the meaning set forth in Section 1.01(b)(1) of this Agreement.

(88) "Un-Allocated RGAs" shall have the meaning set forth in Section 1.07(h) of this Agreement.

(89) "Un-Issued Building Permits" shall have the meaning set forth in Section 1.08(c)(3) of this Agreement.

(90) "Urban Reserves" shall have the meaning set forth in Recital paragraph D of this Agreement.

(91) "Vesting Map" shall have the meaning set forth in Section 1.06(e) of this Agreement.

(92) "Water Capacity" shall have the meaning set forth in Section 1.13(a) of this Agreement.

(93) "WSA" shall have the meaning set forth in Section 1.13(a) of this Agreement.

3.02 Requirements of Development Agreement Statute.

(a) The permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to any development and construction on the Property shall be those set forth in the General Plan, and all other provisions of the Applicable Law.



(b) During the Term of this Agreement, and pursuant to Government Code section 65866, the rules, regulations, official policies and all other controlling criteria shall be the Applicable Law, which Applicable Law may expand pursuant to this Agreement to include New City Law(s), Owner Approvals, and other subsequent actions that this Agreement includes in the Applicable Law.

(c) As stated above, this Agreement complies with laws regarding Development Agreement Statute (including without limitation section 65865.2), which requires this Agreement to specify the duration (Term) of the Agreement, the permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The duration of this Agreement is set forth in Section 1.06 of this Agreement, and this Agreement sets forth provisions for the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes in the Applicable Law provisions of this Agreement. For example, the Ellis Specific Plan is part of the Applicable Law for the Ellis Specific Plan site, and the Ellis Specific Plan sets forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes for that Ellis Specific Plan area. Likewise, as to Other Properties that this Agreement may apply to in the future, upon the recordation of this Agreement against such Property, the Applicable Law will apply, which Applicable Law uses the General Plan and City Laws applicable to such Property, all of which set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Further, such General Plan and City Laws require the processing and approval of Owner Approvals before any development can take place, which Owner Approvals will likewise set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Finally, under this Agreement's own terms and conditions, Owner is not eligible to make application for nor receive an RGA (needed before any residential development can take place) unless and until a "Plan Approval" (defined in Section 1.07(b) of this Agreement) has first been processed and approved by City pursuant to this Agreement, and this Agreement is thereafter recorded against such property. Under this Agreement, such Plan Approval must set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Like the Ellis Approvals, that Plan Approval will become part of the Applicable Law provisions of this Agreement. In other words, at no time upon the recordation of this Agreement against a Property (which recordation cannot take place until the requirements of this Agreement and controlling law have been satisfied regarding the recordation of this Agreement against such Property) will there not be applicable, know and understood the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes relative to such Property.

3.03 Development Timing.

The Parties acknowledge that the timing, sequencing, and phasing of any later-approved development is solely the responsibility of Owner. In particular, the Parties desire to avoid the result of the California Supreme Court's holding in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), where the failure of the parties therein to consider and

expressly provide for the timing of the development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement.

3.04 Hold Harmless and Indemnification.

Owner shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) (collectively, "**Claims**") resulting from or arising out of the development contemplated by this Agreement by Owner or Owner's agents, representatives, contractors, subcontractors, or employees, other than a liability or claim based upon City's gross negligence or willful misconduct. The indemnity obligations of this Agreement shall not extend to Claims arising from activities associated with the maintenance or repair by the City or any other public agency of improvements that have been accepted for dedication by the City or such other public agency. From time to time the City and Owner may enter into subdivision improvement agreements, as authorized by the Subdivision Map Act, and those subdivision improvement agreements may have language that is different from the language contained in this Agreement. In the event of any conflict between the provisions of this section and the indemnification provisions in such subdivision improvement agreements, the indemnification provisions in this Agreement shall prevail.

3.05 Miscellaneous.

(a) Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Owner acknowledges and agrees that City has approved and entered into this Agreement in the sole exercise of its legislative discretion and the standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of the City. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing Party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.

(b) Development Is a Private Undertaking. The development contemplated by this Agreement is a separately undertaken private development. No partnership, joint venture, or other association of any kind between the Owner, on the one hand, and City on the other, is formed by this Agreement. The only relationship between City and Owner is that of a governmental entity regulating the development of private property and the owners of such private property.

(c) Construction. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

(d) Notices.

(1) All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective Party as follows:

If to the City:

City Manager
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Telephone: (209) 831-6000
Facsimile: (209) 831-6120

With a copy to:

City Attorney
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Telephone: (209) 831-6130
Facsimile: (209) 831-6137

If to Owner:

Les Serpa
Chris Long
Surland Communities, LLC
1024 Central Avenue
Tracy, CA 95376
Telephone: (209) 832-7000
Facsimile: (209) 833-9700

With a copy to:

Michael Patrick Durkee
Allen Matkins Leck Gamble Mallory & Natsis LLP
200 Pringle Avenue, Suite 300
Walnut Creek, CA 94596
Telephone: (925) 943-5551
Facsimile: (925) 943-5553

(2) Either Party may change the address stated herein by giving notice in writing to the other Party, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to Owner as required by this Agreement shall also be given to all other signatory Parties hereto and any lender which requests that such notice be provided. Any signatory Party or lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Agreement.

(e) Recordation. No later than ten (10) days after the Agreement Effective Date, the Clerk of the City shall record a copy of this Agreement in the Official Records of the Recorder's Office of San Joaquin County. Owner shall be responsible for any recordation fees.

(f) Jurisdiction and Venue. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

(g) Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

(h) Execution/Entire Agreement. This Agreement may be executed in duplicate originals, each of which is deemed to be an original. This Agreement also may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument. This Agreement, including these pages and all the exhibits inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.

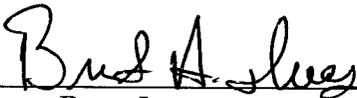
(i) Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Owner and City. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

(j) Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

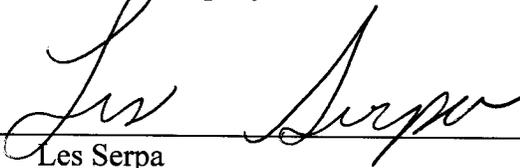
<i>Exhibit A</i>	<i>Immediate Property Legal Description</i>
<i>Exhibit B</i>	<i>Swim Center Payment Protocol</i>
<i>Exhibit C</i>	<i>RGAs Transmittal and Application Forms</i>
<i>Exhibit D</i>	<i>City Authorization to Record Development Agreement</i>
<i>Exhibit E</i>	<i>Memorandum of Assignment</i>

IN WITNESS WHEREOF, the Parties do hereby agree to the full performance of the terms set forth herein.

"City"
CITY OF TRACY, a municipal
corporation


By: Brent Ives
Title: Mayor
Date: 2/5/09

"Owner"
SURLAND COMMUNITIES, LLC, a California
limited liability company


By: Les Serpa
Title: Managing Member
Date: Jan. 28, 2009

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Joaquin

On 2/15/09 before me, Sharon K. Davis Notary Public
Date Here Insert Name and Title of the Officer

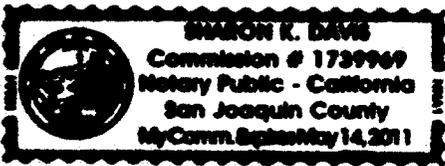
personally appeared Brent H. Ives
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Sharon K. Davis
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

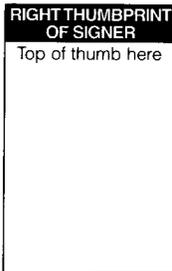
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

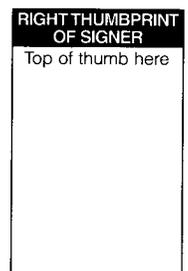
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

ACKNOWLEDGMENT

State of California
County of San Joaquin)

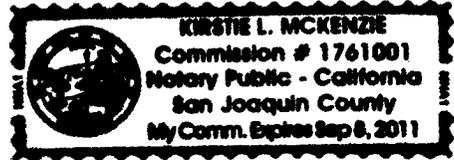
On January 28, 2009 before me, Kirstie L. McKenzie, Notary Public
(insert name and title of the officer)

personally appeared Les J. Serpa,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Kirstie McKenzie (Seal)



Attest:

Sandra Edwards

By: Sandra Edwards

Title: City Clerk

Date: 2.5.09

Approved As To Form:

Debra E. Corbett

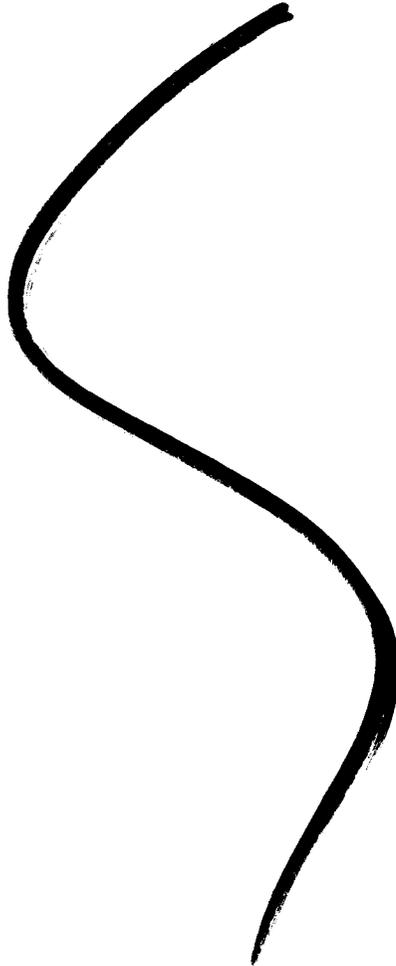
By: Debra E. Corbett

Title: City Attorney

Date: 2/3/09

Exhibit A

Immediate Property Legal Description



Handwritten initials or signature mark in the bottom right corner, consisting of several overlapping, slanted lines.

The land situated in the unincorporated area of the County of San Joaquin, State of California, and described as follows:

DESCRIPTION

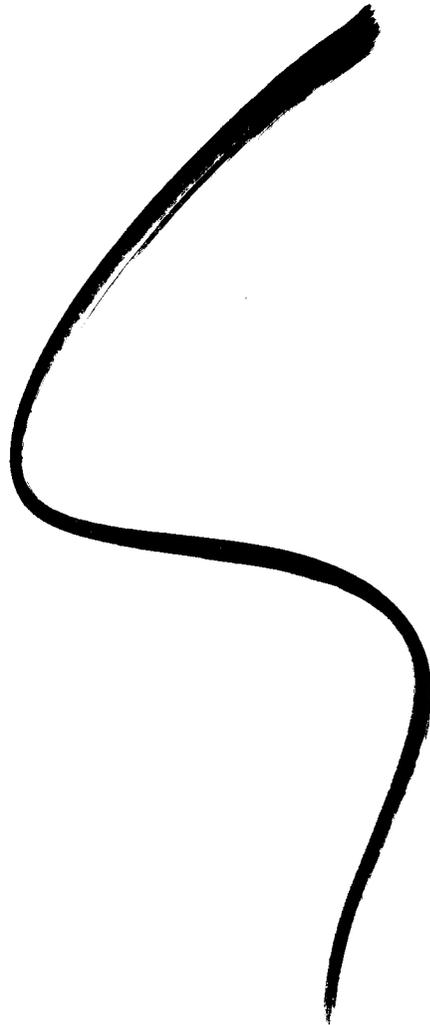
All that certain real property situate in Section 6, Township 3 South, Range 5 East, Mount Diablo Base and Meridian, County of San Joaquin, State of California, and described as follows:

Parcel 1 as said parcel is shown on that certain map entitled "PA-0800181, PARCEL MAP", filed January 27, 2009, in Book 25 of Parcel Maps at Page 33 in the Office of the Recorder of San Joaquin County.



Exhibit B

Swim Center Payment Protocol



Handwritten signature or initials in the bottom right corner.

SWIM CENTER PAYMENT PROTOCOL

EX.B-1. The purpose of this *Exhibit B* is to memorialize the terms, conditions, and parameters by which City and Owner shall implement the design and construction of the Swim Center, as well as to set forth a protocol for the funding of the design and construction costs of the Swim Center. This *Exhibit B* shall not be construed as a preliminary or final approval of the Swim Center or any other land use decision and/or other discretionary process or approval not yet given by City.

EX.B-2. The Swim Center is a public project that will be owned and operated by City. As a result, City shall enter into contracts with all consultants and construction contractors necessary for the design, construction, operation, and maintenance of the Swim Center.

EX.B-3. During the design and construction phases, Owner representatives may participate in design decisions, design modifications and other design-related decisions. Owner representatives shall be invited by City to attend construction progress meetings with City representatives, consultants, and the general contractor to allow for such Owner participation.

EX.B-4. Section 2.20.140 of the Tracy Municipal Code requires that a formal Request for Proposal ("RFP") procedure be followed for consulting services costing \$50,000 or more. This procedure is not required, however, if the City Council determines that compliance with this procedure would not be in the best interest of City. Because RJM Design Group, Inc. ("RJM") and Gates Associates ("Gates") have been responsible for preliminary design to date and are highly qualified to continue to provide design services for the Swim Center, the City Council may determine that it is in the best interest of City not to follow the RFP procedure for the design services for the Swim Center.

EX.B-5. Urban Design Associates ("UDA"), the consultant that prepared the Ellis Specific Plan, drafted the Schematic Design and Design Development concepts for the Swim Center. If desired by City, City may hire UDA to assist in the further refinement of the Schematic Design and Design Development for the Swim Center, with the costs for any such assistance of UDA to be paid by City from the Swim Center Funds.

EX.B-6. Within thirty (30) days following the Annexation Effective Date, Owner shall deposit the Owner Swim Center Contribution, and City shall deposit the City Swim Center Contribution, into a segregated and interest-bearing City account ("**Swim Center Funds Account**"). City should likewise deposit any New Development Swim Center Contribution funds it collects from new development into said Swim Center Funds Account on a quarterly basis. Any and all interest earned relative to the funds in the Swim Center Funds Account shall be kept with, added to and become part of the Swim Center Funds Account. Within thirty (30) days of the Owner deposit into such Swim Center Funds Account, City shall remit to Owner monies totaling \$324,000 ("**Swim Center Advance Costs**"). The rationale for the Swim Center Advance Costs is as follows:

(a) Concept Master Plan Development:

(1) RJM Design Group	\$173,000
(2) Urban Design Associates	\$40,000
(3) BKF Engineering	\$3,000
(4) Gates and Associates	\$20,000

(b) Feasibility and Demographic Study and Analysis

(1) RJM Design Group	\$32,000
----------------------	----------

(c) Budget Review and Analysis

(1) RJM Design Group	\$56,000
----------------------	----------

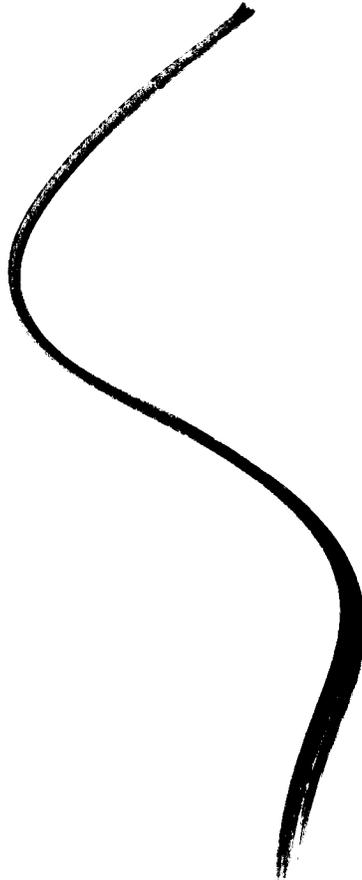
EX.B-7. Monies withdrawn from the Swim Center Funds Account shall be for the sole purpose of funding the design, construction, operation, and/or maintenance costs of the Swim Center. City shall make withdrawals from the Swim Center Fund Account in the amounts and at the times it deems necessary in order to pay those costs authorized by this Ex.B-7.

EX.B-8. Notwithstanding the foregoing, in the event that an Annexation Effective Date never occurs due to the failure to successfully annex the Ellis Specific Plan Property, Owner shall bear the sole responsibility for the applicable Swim Center costs incurred by Owner, except that in the event any such work funded by Owner is subsequently used by City then City shall pay to Owner the actual cost of such work within thirty (30) days of demand by Owner.



Exhibit C

RGA Transmittal and Application Forms



Handwritten signature or initials in the bottom right corner.

RGAs Transmittal Form

SURLAND DEVELOPMENT AGREEMENT RESIDENTIAL GROWTH ALLOTMENT APPLICATION

This is a Residential Growth Allotment (RGA) application as provided for in the Development Agreement between THE CITY OF TRACY and SURLAND COMMUNITIES, LLC dated _____ ("Agreement").

Submitted by: _____
Date: _____

Received by: _____
Date: _____



APPLICATION FOR RESIDENTIAL GROWTH ALLOTMENTS

Purpose Of Application

RGA's: _____ Exception (For Affordable Housing Units): _____

Applicant's Information

Name: _____ Telephone No.: _____

Company: _____ Fax No.: _____

Mailing Address: _____

City/State/Zip Code: _____

Property Owner's Information

Name: _____ Telephone No.: _____

Company: _____ Fax No.: _____

Mailing Address: _____

City/State/Zip Code: _____

(if necessary, please attach a sheet listing additional property owner information)

Project Information

Recorded Subdivision Name: _____

Tract No.: _____ Total No. of Lots: _____ Total Acreage: _____

Specify Planning Area (ex: Ellis, etc.): _____

Project (Ownership) Area for which RGA's are applied

Project Area name (if different from above): _____

Project Area ownership: _____

Project Area acreage: _____ Total number of Project Area lots: _____

Assessor's Parcel No(s): _____

Project (Ownership) Area for which RGA's are applied (continued)

Total number of RGA's previously awarded to Project Area: _____

Total number of building permits issued: _____

Total number of unused RGA's (RGA's previously awarded less the total number of RGA's used for building permit issuance): _____

Total number of RGA's requested in this application: _____

Identify the relevant plan approval(s) that have been obtained for the Project

Area: _____

Applicant's Signature

I, the undersigned, have complied with all the requirements of the Agreement relevant to this application:

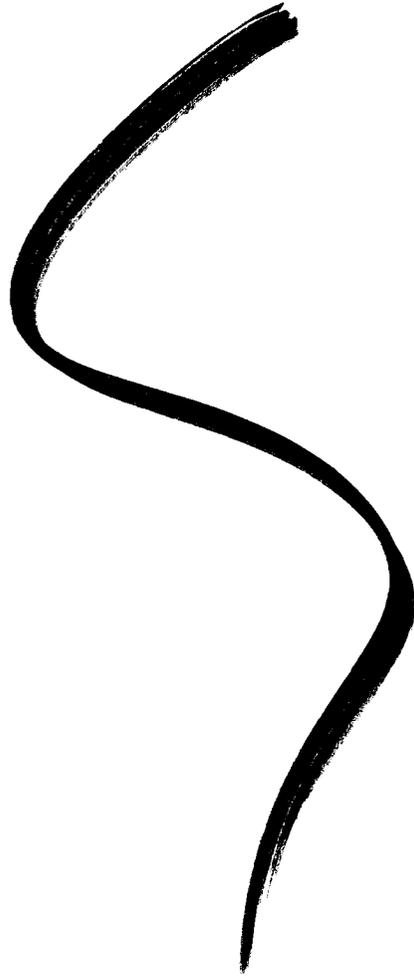
Applicant's Signature

Date



Exhibit D

City Authorization to Record Development Agreement



City Authorization to Record Development Agreement

EX.D-1. Pursuant to Section 1.12 of the Development Agreement by and between the CITY OF TRACY, a municipal corporation ("City"), and SURLAND COMMUNITIES, LLC a California limited liability company ("Owner"), dated _____, 2009, this Agreement may be recorded against a Subject property when all of the following has occurred:

- (a) The Subject Property is known and its legal description prepared;
- (b) Owner has acquired a legal or equitable interest in the Subject Property;
- (c) The Subject Property is included within the City's Sphere of Influence; and

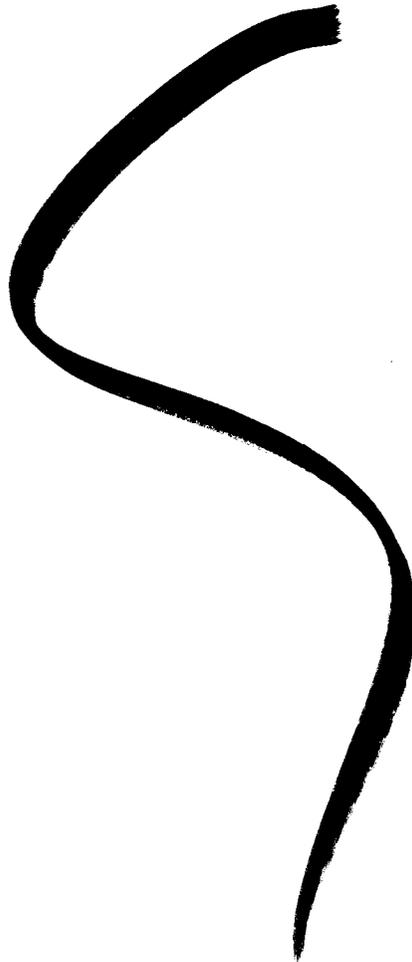
(d) The City Council has determined that the Subject Property has satisfied the requirements of subdivisions (a), (b) and (c) above and has authorized its designated agent to sign the "City Authorization to Record Development Agreement."

EX.D-2. On _____ 2____, the City Council determined that such Subject Property has satisfied the requirements of subdivisions (a), (b) and (c) above. The City Council hereby authorizes the City Manager to sign this City Authorization to Record Development Agreement and have it recorded against such Subject Property.



Exhibit E

Memorandum of Assignment



NO FEE DOCUMENT per Government Code § 6103
RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City Clerk
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Memorandum Of Assignment

This "**Memorandum of Assignment**" relates to that Development Agreement by and between the City of Tracy and Surland Communities, LLC dated January __, 2009 ("Agreement") (the form of this Memorandum of Assignment was *Exhibit E* to the Agreement), and the recording and use of the Agreement on that certain real property ("Subject Property"). This Memorandum of Assignment is entered into by SURLAND COMMUNITIES, LLC a California limited liability company ("Owner") and _____ [owner of Subject Property] ("Assignee").

1. The Subject Property is more particularly described in *Exhibit 1*, attached hereto and incorporated herein by this reference as if set forth in full.

2. The Subject Property is hereby burdened and benefitted by and otherwise bound and subject to each and every term and condition of the Agreement , including the following additional details/requirements:

(a) The Subject Property shall have a right to an overall total of only ___ RGAs ("**Subject Property RGA Total**"). The Subject Property shall not have any right to any RGAs given under the Agreement beyond the Subject Property RGA Total.

(b) The Subject Property shall have a right to only ___ RGAs from the Annual RGA Eligibility ("**Subject Property Annual RGA Eligibility Total**"). The Subject Property shall not have any right to any RGAs from the Annual RGA Eligibility given under the Agreement beyond the Subject Property Annual RGA Eligibility Total.

(c) The Subject Property is subject to the following additional RGA terms and conditions [list].

(d) The Subject Property shall have a right to a total of only ___ Building Permits ("**Subject Property Building Permit Total**"). The Subject Property shall not have any right to any Building Permits beyond the Subject Property Building Permit Total

(e) Additionally, the Subject Property shall have a right to only ___ Building Permits per year from the Building Permits otherwise available under the Agreement ("**Subject Property Annual Building Permit Total**"). The Subject Property shall not have any right to any Building Permits beyond the Subject Property Annual Building Permit Total.

(f) The Subject Property is subject to the following additional Building Permit terms and conditions [list].

Executed this _____ day of _____, _____, at _____, California.

SURLAND COMMUNITIES, LLC a
California limited liability company

By: _____

Its: _____

[SUBJECT PROPERTY OWNER]:

By: _____

Its: _____



THE SURLAND COMPANIES

RECEIVED

December 14, 2011

DEC 15 2011

CITY OF TRACY
D.E.S.

Residential

Commercial

Mr. Bill Dean
Assistant Director-Department of Engineering Services
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

RE: Request for Development Agreement - Ellis Specific Plan

1024 CENTRAL AVE.

Dear Mr. Dean:

TRACY

With this letter, and attached development application, the Surland Companies requests that the City enter into formal discussions with the Surland Companies for the purpose of reaching mutually agreeable terms for a Development Agreement with the City of Tracy.

CALIFORNIA

95376

TELEPHONE

The proposed Development Agreement would seek mutually beneficial terms addressing infrastructure, residential growth allotments, land dedications, and funding for a proposed City owned family swim center, over a term of twenty five years.

(209)832-7000

FACSIMILE

More specifically, the City of Tracy would benefit from the Agreement by receiving up to \$10 Million dollars of funding toward the design and construction of a family swim center, as well as up to 16 acres of dedicated land within the Ellis Specific Plan for the proposed family swim center site. In return, the project would receive from the City 2,250 RGAs to be used within the Ellis Specific Plan over the term of the Agreement, as well as water and wastewater treatment and capacity in the existing treatment plants; the costs of which are paid for by the Project Proponent.

(209)833-9700

WEBSITE

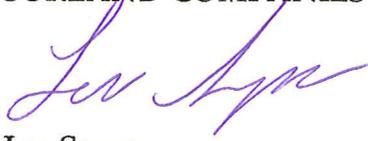
www.surlandcompanies.com

Mr. Bill Dean, City of Tracy
December 14, 2011
Page 2 of 2

We look forward to working together with the City of Tracy in making good things happen in our community for all to enjoy and be proud of.

Sincerely,

SURLAND COMPANIES



Les Serpa
CEO

AGENDA ITEM 5

REQUEST

AUTHORIZE A PROFESSIONAL SERVICES AGREEMENT WITH SPILLMAN TECHNOLOGIES, INC. OF SALT LAKE CITY, UTAH FOR AN AMOUNT (INCLUDING ALL OPTIONS) NOT TO EXCEED \$2,736,898 TO PROVIDE THE POLICE DEPARTMENT (TPD) WITH A FULLY INTEGRATED COMPUTER AIDED DISPATCH (CAD)/RECORDS MANAGEMENT (RMS) SYSTEM, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

The mainstay of the Tracy Police Department's (TPD) information and communication ability are the Computer Aided Dispatch and Records Management systems (CAD/RMS). These two systems work simultaneously and in conjunction with one another to allow information to be collected and disseminated to officers in the field, for investigative purposes, crime analysis, records keeping, as well as other functions vital to the Police Department. The current CAD/RMS system is operated by the West Covina Service Group (WCSG) and housed off site. Several issues exist with this format, including the ability to perform specific tasks because the West Covina Service Group will not allow "third party" vendors into its system. The City would have to purchase servers, at the City's expense, to allow specific critical information to be "pushed" into their system for certain specific functions. This is not only very costly to the City, but also subject to WCSG specifications. WCSG has several client agencies and must create a generic system that meets only minimum requirements and does not allow tailoring of a system to TPD's specific needs. Staff sent a Request for Proposals to vendors to provide a fully integrated CAD/RMS system and after extensive review, recommends the firm of Spillman Technologies, Inc. for this project.

DISCUSSION

On October 4, 2010, the City invited Requests for Proposals from various Computer Aided Dispatch and Records Management systems (CAD/RMS) vendors. The City received five responses which included: Vision Air Inc., Tiburon, Inc., Tri Tech Software Systems, Intergraph Corporation and Spillman Technologies, Inc. A project team extensively evaluated all proposals. The project team included members of the Police Department and other City staff. A scoring system based on numerous factors including, but not limited to, risk, software functionality, project management, supportability and price were used to determine which vendor was best suited for the Tracy Police Department's needs. Staff found Spillman Technologies, Inc. (Spillman) to be the preferred vendor based on those factors.

The project team spent many hours reviewing and evaluating Spillman's proposal and base product. This review and evaluation consisted of site visits, contacting current Spillman users, and viewing "live" demonstrations of the Spillman system. Spillman is a solid, proven company with over thirty years of experience nationwide in CAD/RMS installations. Spillman currently serves several hundred clients throughout California

and the United States. Spillman has a time tested industry respected product with little or no "down time".

The project team, through negotiations, was able to obtain a total of \$377,000 in overall price reductions off the price of the base System (excluding options). These discounts included, but are not limited to: the overall System, interfaces, hardware/software, maintenance, project management and support. We also shielded the City against costs related to future updates and negotiated a license fee waiver for any replacement products (a future cost savings far exceeding \$1,000,000). Spillman is acting as the prime contractor for this project and will provide all hardware and software for the System. As prime contractor, Spillman will be responsible for numerous warranties, ownership of source code, and performance guarantees essential for public safety.

The project includes several options included in the overall pricing. These options include, but are not limited to: interfaces, data conversion, supplemental training, additional inventory management, fleet maintenance, equipment maintenance, personnel management, and failover hardware. These options can be individually exercised at the sole and exclusive discretion of the City. If an option is not exercised, the monies will be credited back to the CIP.

The CIP funds allocated towards this project are \$3,301,582. To date a total of 493,055.24 is encumbered toward the overall budget. Those funds have been encumbered for the following capital or professional services: consulting services (\$370,500), furniture (\$7,056), and software/hardware (\$13,356), of which \$12,731 will be reimbursed back to the City via state 911 grant funds. The funds remaining in the project total of \$2,821,257.76 will be used toward the Professional Services Agreement with Spillman.

FISCAL IMPACT

The CAD/RMS project (CIP 71063) has been approved as part of the FY08-09 CIP budget. The total price not to exceed for this project is 2,736,898 which is within the budget of the CIP.

RECOMMENDATION

That City Council, by resolution, authorize a Professional Services Agreement with Spillman Technologies, Inc. for an amount not to exceed \$2,736,898 to purchase a multiagency, multijurisdictional CAD/RMS system and authorize the Mayor to execute the Agreement.

Prepared by: Steve Beukelman, Sergeant

Reviewed by: Gary Hampton, Chief of Police

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

APPROVING THE PROFESSIONAL SERVICES AGREEMENT WITH
SPILLMAN TECHNOLOGIES INC. TO PROVIDE COMPUTER AIDED DISPATCH
AND RECORDS MANAGEMENT SYSTEMS
AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, On October 4, 2010, the City invited Requests for Proposals from various Computer Aided Dispatch and Records Management systems (CAD/RMS) vendors, and

WHEREAS, A project team consisting of members of the Police Department and other City staff extensively evaluated all proposals based on numerous factors including, but not limited to, risk, software functionality, project management, supportability and price to determine which vendor was best suited for the Tracy Police Department's needs, and

WHEREAS, After the extensive review, City staff recommended a Professional Services Agreement be approved with Spillman Technologies, Inc. (Spillman), and

WHEREAS, The CAD/RMS replacement project (CIP 71063) has been approved as part of the FY09-10 CIP budget, and

WHEREAS, The proposed services are not to exceed \$2,736,898, and

WHEREAS, The City Council finds it is in the best interest of the City to have Spillman procure hardware and other goods related to the CAD/RMS project based on the following: Spillman's performance guarantees require the System is required to give sub-second response for CAD and less than five seconds for Records checks and Spillman needs to control the hardware involved in the process to provide such guarantees; Spillman will be the prime contractor and be responsible for all software and hardware so, if a problem happens, staff can deal with Spillman rather than numerous other vendors to promptly solve the problem; and this method means that the City will purchase a "system" which is defined in the contract as all hardware and software holding Spillman accountable for all elements and not allowing Spillman to blame another vendor for problems.

NOW, THEREFORE, BE IT RESOLVED, That the City Council does hereby approve a Professional Services Agreement with Spillman Technologies, Inc. to provide a CAD/RMS system and to procure hardware and goods related to the system and authorizes the Mayor to execute the Agreement.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 6th day of March, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

**Professional Services and Software License Agreement
Between Spillman Technologies, Inc.
and
The City of Tracy, California**

Table of Contents

Section 1: Definitions	2
Section 2: Term of the Agreement	5
Section 3: Exhibits and Order of Preference	5
Section 4: Professional Services and Third Party Products	6
Section 5: Scope of Work	6
Section 6: License	8
Section 7: Scope of Rights	9
Section 8: Compensation and Terms of Payment	10
Section 9: Support	11
Section 10: Customer Responsibilities	11
Section 11: Proprietary Protection and Restrictions	11
Section 12: Spillman Responsibilities	12
Section 13: Independent Contractor	13
Section 14: Confidential Information	13
Section 15: Utilities; Restrictions on Usage	14
Section 16: Warranties	15
Section 17: Limits on Liability	16
Section 18: Indemnification	17
Section 19: Insurance	18
Section 20: Dispute Resolution	19
Section 21: Termination	19
Section 22: Transfer of Title and Risk of Loss	20
Section 23: Changes in Work	21
Section 24: Miscellaneous	21

1 This Professional Services and Software License Agreement (“Agreement”) is made and entered
2 into effective as of the date this Agreement is signed by both parties below, and is by and
3 between:

4 **Spillman Technologies, Inc. (“Spillman”)**
5 **843 South 100 West**
6 **Logan, Utah 84321**

7 and

8 **City of Tracy (“Customer”)**
9 **333 Civic Center Plaza**
10 **Tracy, California 95376**

11 Whereas, Customer desires to procure from Spillman a license for a fully integrated Public
12 Safety Information System including two major subsystems: 1) Computer Aided Dispatch
13 (CAD, Message Switch (MS), Mobile Data System (MDS) and a Police Records Management
14 System (RMS), and 2) an Automated Field Reporting System (AFRS) including a Handheld
15 Citation System (HCS), and the professional services, maintenance services, and third party
16 hardware, software and services, as set forth in Exhibit H, Pricing Summary and Detail (herein
17 referred to as the “System”), and;

18 Whereas, Spillman desires to provide the System and perform the Professional Services
19 necessary to install, implement and maintain the System; and,

20 Whereas, the parties desire to enter into this Agreement as herein set forth;

21 NOW THEREFORE, for the considerations as set forth herein, the sufficiency of which is hereby
22 acknowledged, the parties agree as follows:

23

24 **Section 1: Definitions**

25 1.1 **“Agreement”** means this Professional Services and Software License Agreement and its
26 exhibits. In the event of any inconsistency between or among these documents, the
27 inconsistency shall be resolved as stated in Section 3, Order of Precedence.

28 1.2 **“Custom Software Modifications”** means any modification of the Software Source
29 Code or data base structure, which provides new or improved functions or features to address
30 specific requirements of this Agreement. Any Custom Software Modifications to be provided
31 by Spillman are either set forth in this Agreement or will be agreed to pursuant to Section 23.

32 1.3 **“Confidential Information”** means, to the extent allowed under the California Public
33 Records act, any non-public information provided by either party to the other in connection
34 with this Agreement, including the Software, Spillman’s pricing, future product plans, trade
35 secrets; know-how; a party’s non-public business and financial information; customer lists; any
36 written materials marked as confidential and any other information, including visual or oral

1 information, which reasonably should be understood to be confidential. Confidential
2 Information does not include information that a party can prove: (a) is now or later becomes
3 generally available to the public without fault of the party who received such information
4 ("Recipient") from the other party ("Discloser"); (b) was rightfully in Recipient's possession
5 prior to its disclosure by Discloser; (c) is independently developed by Recipient without the use
6 of any Confidential Information of Discloser; or (d) is obtained by Recipient without obligation
7 of confidentiality from a third party who has the right to disclose it. Additionally, a party may
8 disclose this Agreement or Confidential Information to the extent required by the California
9 Public Records Act, a judicial or legislative order or proceeding, provided that Recipient gives
10 Discloser prompt prior notice of the intended disclosure and an opportunity to respond or
11 object to the disclosure, if permissible.

12 1.4 "Defect" means any error, failure, deficiency, or any other unacceptable variance of the
13 System or component to conform in all material respects to the warranties described in this
14 Agreement, including any failure to conform in all material respects to the Performance and
15 Reliability Requirements as stated in Exhibit C. With respect to the Hardware, the term
16 "Defect" means any material error, failure, deficiency or any other material and unacceptable
17 variance from the manufacturer's documentation or warranty provided with the Hardware or
18 as a component of this Agreement. With respect to the Software, the term "Defect" means any
19 error, failure, or deficiency or any other unacceptable variance from any required, specified, or
20 expected program behaviors as may be required for the Software to operate correctly and in
21 compliance with the terms of this Agreement and the Documentation for the Software installed.

22 1.5 "Documentation" means all written, electronic, or recorded end user and system
23 administration documentation and functional descriptions therein that describe the uses,
24 features, functional capabilities of the Products, or any subsystem, component, Custom
25 Software Modification or Interface, and that are published or provided to the Customer by
26 Spillman.

27 1.6 "Final System Acceptance" means the date on which Spillman has completed its
28 obligations as defined by this Agreement, excepting those Services to be provided under Exhibit
29 G, and excepting any obligations to the extent that they survive after Final System Acceptance.
30 (for purposes of this Agreement and its Exhibits, such post-Final System Acceptance obligations
31 will not be deemed part of the obligations of this Agreement required to be completed as a
32 condition of Final System Acceptance).

33 1.7 "Hardware" means all hardware, equipment and other tangible non-Software items
34 supplied to the Customer by Spillman under this Agreement.

35 1.8 "Interfaces" refers to one or more of the specialized software applications developed or
36 sublicensed by Spillman and installed as a part of the Project for the purpose of sharing
37 information (data) between the Software and any other software program or device. Interfaces
38 provided as a part of the System are described in Exhibit B, Interface Descriptions.

- 1 1.9 **“Preliminary Acceptance Test Period”** means the thirty-day period of time in which
2 each major subsystem (CAD/MS/MDS/RMS, and AFRS/HCS) will be used and tested by the
3 Customer in a live environment in order to determine if that subsystem meets the requirements
4 of this Agreement. Each subsystem shall have its own Preliminary Acceptance Test Period as
5 more fully described in Exhibit A, Statement of Work
- 6 1.10 **“Products”** means the hardware and software items listed in Exhibit H, Pricing
7 Summary and Detail.
- 8 1.11 **“Project”** means Spillman’s obligations under this Agreement to develop, supply,
9 install, configure, test and successfully implement the System.
- 10 1.12 **“Services”** means the implementation, development, training, configuration, loading,
11 testing, project management and other services to be provided by Spillman under this
12 Agreement, including, without limitation, the tasks detailed in Exhibit A, Statement of Work.
- 13 1.13 **“Spillman Application Administrator”** means an agent of Customer appointed by
14 Customer as the Spillman Application Administrator, who has been certified on the Software by
15 Spillman, pursuant to the procedures set forth in Section 6 of Exhibit G, Maintenance and
16 Support Agreement and communicates with Spillman support personnel in the description and
17 resolution of problems associated with the Software.
- 18 1.14 **“Software”** means any software owned by Spillman, including all computer program(s),
19 applications and modules, Interfaces, Custom Software Modifications, Updates, Utilities and/or
20 data, in machine-readable form only, and related materials, including all related Documentation
21 and listings, and that is identified in Exhibit H, Pricing Summary and Detail, or subsequently
22 licensed to Customer under the terms of this Agreement. Software specifically excludes Third
23 Party Software not developed by Spillman, but that might be used in conjunction with the
24 Spillman Software, such as word processors, spreadsheets, terminal emulators, etc.
- 25 1.15 **“Source Code”** means the human readable form of the Software and all algorithms, flow
26 charts, logic diagrams, structure descriptions or diagrams, data format or layout descriptions,
27 pseudo-code, code listings (including comments), including all Documentation relating to the
28 Source Code sufficient to enable a programmer trained in the language in which the Source
29 Code is written to maintain and/or modify the Software without undue experimentation.
30 Source Code does not include any Third-Party Software supplied by Spillman under this
31 Agreement.
- 32 1.16 **“System”** means the collective whole of all Products and Services to be purchased,
33 developed, licensed, supplied, installed, configured, tested and implemented by Spillman under
34 this Agreement and includes, without limitation, the major subsystems and related components
35 and interfaces.

1 1.17 "Third Party Software" means the software to be supplied by Spillman under this
2 Agreement that is purchased or licensed from any source external to Spillman for use with or
3 integration into the System.

4 1.18 "Updates" means improvements, additions, and corrections to the Software and/or
5 Documentation, including functional or product enhancements, bug fixes, patches, new product
6 or version releases and replacement modules that Spillman makes generally available to its
7 customers with or without an additional fee.

8 1.19 "Utilities" means the software utilities and similar tools intended for system
9 administrator use only, which are owned or licensed and provided by Spillman as part of the
10 Software, including, but not limited to, Spillman's XML Query, ODBC interface and
11 implementation code, ctpperl, dbdump, and dbload.

12 1.20 "Warranty Period" means the one-year period following the date of Final System
13 Acceptance.

14 **Section 2: Term of the Agreement**

15 This Agreement shall become effective on the date executed by duly authorized representatives
16 of both parties and, except for those matters expressly set forth herein as surviving beyond the
17 termination date of the Agreement, shall continue through Final System Acceptance unless
18 otherwise terminated as provided herein. The phrase "term of the Agreement" means until
19 Final System Acceptance or other termination of this Agreement and does not include the
20 transition period or the period during which a section may survive.

21 **Section 3: Exhibits and Order of Preference**

22 The following Exhibits are incorporated into this Agreement:

- 23 1. Exhibit A – Statement of Work
- 24 2. Exhibit B – Interface Descriptions
- 25 3. Exhibit C – Performance and Reliability Requirements
- 26 4. Exhibit D – Training Plan
- 27 5. Exhibit E – Acceptance Test Plan
- 28 6. Exhibit F – Project Schedule
- 29 7. Exhibit G – Maintenance and Support Agreement
- 30 8. Exhibit H – Pricing Summary and Detail
- 31 9. Exhibit I – Payment Schedule
- 32 10. Exhibit J – Source Code Escrow Agreement

1 11. Exhibit K – Spillman Proposal dated December 15, 2010 (provided previously by
2 Spillman to the Customer under separate cover) and related Spillman letters of
3 clarification

4 In the event of any inconsistency between the various documents that comprise this Agreement,
5 the order of precedence shall be as follows: (i) the Agreement, followed by (ii) the exhibits to
6 the Agreement in the order in which they appear in Section 3, Exhibits.

7 **Section 4: Professional Services and Third Party Products**

8 4.1 Professional Services. The professional services to be supplied by Spillman under this
9 Agreement are listed in Section 4 of the Pricing Exhibit.

10 4.2 Third Party Products. The third party products to be supplied by Spillman under this
11 Agreement are identified in Section 2 and Section 3 of the Pricing Exhibit. Spillman makes no
12 warranties with respect to such third party products, but agrees to pass through to Customer
13 any warranties provided by the manufacturers of such products, to the extent permitted.

14 **Section 5: Scope of Work**

15 General requirements for the scope of this Project are listed below.

16 5.1 Spillman Prime Contractor. Spillman shall be the Prime Contractor for this Project. As
17 such, Spillman must provide all procurement, design, development, installation, consulting,
18 system integration, project management, training, technical and other services necessary for the
19 successful delivery and implementation of the System, subject to Customer providing those
20 materials and assistance specified in this Agreement. Notwithstanding the requirements in this
21 Section 5.1, Spillman shall not be held responsible for costs or project delays caused by third
22 party vendors or agencies not under the direct control of Spillman. Additionally, the parties
23 acknowledge that Customer is required to provide workstations and personal computers,
24 network, operating system, Internet connectivity and other components associated with and
25 necessary to effectively use the System that are typically supplied by the customer of such a
26 system. As set forth in Exhibit A, Statement of Work, Spillman will perform a network
27 evaluation for Customer and will provide a report to Customer specifying any modifications or
28 improvements to Customer's network that Spillman recommends in order for the Products to
29 effectively function. System specifications are also published and made available by Spillman.

30 5.2 Access to Premises. The Customer shall provide Spillman with reasonable and timely
31 access to the sites and personnel necessary for Spillman to perform its obligations under this
32 Agreement. Customer shall allow Spillman personnel reasonable access to Customer site and
33 facilities (telephone, facsimile, parking, etc.) during normal business hours and at other
34 reasonable times as requested by Spillman and pre-approved by the Customer.

35 5.3 Implementation. Unless otherwise agreed by the parties in writing, this project will be
36 completed in phases as described in Exhibit A, Statement of Work.

1 5.4 Acquisition of Products and Services. Exhibit H, Pricing Summary and Detail contains
2 the list of the Products and Services that Spillman must procure for, and provide, to Customer
3 under the terms of this Agreement for the proper installation, operation and maintenance of the
4 System. Products to be purchased must be ordered at a time mutually agreeable to the parties;
5 however, Customer acknowledges that any delay by it in approving Product orders after
6 Spillman's request may result in a delay to the schedule for which Spillman is not responsible.
7 If any Product or Service (1) is missing from the acquisition list and is required for the System to
8 meet the requirements of this Agreement; or (2) is incompatible or otherwise unsuited for use in
9 the System, then the Product or Service must be added or replaced, as applicable, by Spillman at
10 no additional charge to the Customer, subject to the terms of Section 5.1 above.

11 5.5 System Installation. Exhibit A, Statement of Work identifies the tasks and
12 responsibilities related to System installation. Exhibit F, Project Schedule, identifies the major
13 milestones in the project and the due dates for completion of each major task.

14 5.6 Training. Exhibit D, Training Plan, contains a list of the training classes for user and
15 administrator training that Spillman will provide for the System. Only qualified Spillman
16 employees or approved subcontractors will perform the training for this Project. All training
17 must be scheduled at times mutually agreeable to both parties.

18 5.7 Training Materials. Spillman must provide one complete set of printed training
19 materials for all training requirements, including lesson plans for the courses, in the form of
20 reproducible black and white masters as well as in electronic format. Customer will have the
21 right to duplicate the training materials for the sole and exclusive use of the Customer.

22 5.8 Shipment. Items shipped via commercial carrier are FOB destination at the fixed price
23 stated herein. Customer is responsible for facility preparation (such as appropriate and
24 adequate power, janitorial services, air conditioning, space, all electrical drops, cabling,
25 Customer furnished items, security, etc.) not specified in this Agreement as being provided by
26 Spillman under the terms of this Agreement, but necessary to accommodate equipment before,
27 during, and after installation.

28 5.9 User Qualifications. Customer shall use its best efforts to ensure that persons operating
29 the System will be qualified, supervised, and trained in the use of personal computers and
30 normal police operations. Spillman will ensure that all training on the System or System
31 components will be conducted professionally and effectively.

32 5.10 Transition. The parties will cooperate to make the transition from the Customer's
33 current systems to the System as smooth and efficient as is reasonably feasible and to minimize
34 disruption to current operations. The installation schedule and disruptions will be mutually
35 agreed by the parties.

36 5.11 Project Schedule. The parties will use reasonable, good faith efforts to complete this
37 Project in accordance with Exhibit F, Project Schedule.

1 5.12 Phased Implementation/Final System Acceptance. Unless otherwise agreed by the
2 parties in writing, this project must be implemented in phases as described in Exhibit A,
3 Statement of Work. Upon successful completion of all terms and conditions of the Agreement,
4 the Customer will process Spillman's invoice for final payment.

5 **Section 6: License**

6 6.1 Grant of License. Spillman hereby grants Customer a perpetual (subject to termination
7 as set forth in Section 21 below), nonexclusive, non-transferable license (either site license or per
8 workstation as specified in Exhibit H, Pricing Summary and Detail) to use the Software, subject
9 to the terms of this Agreement (including the restrictions with respect to Utilities set forth in
10 Section 15). The perpetual license for each Software product or module becomes effective on
11 the date the product or module is installed at the Customer's location.

12 6.2 The license provisions herein apply to all future Updates that are prepared by Spillman
13 and released to the Customer under the terms of this Agreement or any future Maintenance and
14 Support Agreement.

15 6.3 All Third Party Software licenses are governed by the terms of this Agreement, unless a
16 separate license for such Third Party Software is provided to Customer by Spillman, and
17 become effective at the time the product is installed at the Customer's location.

18 6.4 Spillman's granting of the licenses herein and the Customer's use of the Software do not
19 constitute a waiver of the Customer's right to reject the System, in whole or in part, if the
20 requirements for Final System Acceptance are not met.

21 6.5 Source Code Escrow Account. At the same time Spillman delivers the Software to the
22 Customer, Spillman must deliver a fully and accurately commented and documented copy of
23 the Source Code to the Source Code escrow agent identified in Exhibit J, Source Code Escrow
24 Agreement. In addition, if, during the term of this Agreement, the Warranty Period, or the
25 Maintenance and Support Agreement, Spillman provides the Customer with any version
26 Updates to the Software, Spillman must, within thirty days, provide the escrow agent with the
27 Source Code for the Updates, as applicable. The Customer may access and use the Source Code
28 under the terms and conditions stated in the Source Code Escrow Agreement. In the event the
29 contract between the Source Code escrow agent and Spillman is terminated for any reason,
30 Spillman will use commercially reasonable efforts to, within 30 days of termination of that
31 agreement, secure a replacement escrow account service with substantially the same
32 protections, term and cost afforded Customer as described in Exhibit J. Customer is responsible
33 for all fees charged by the Source Code escrow agent.

34 6.6 Ownership. Spillman's Software and all related documentation and materials provided
35 by Spillman are licensed (not sold) to Customer. Spillman retains sole and exclusive ownership
36 of all rights, title, and interest in and to the Software, all related materials, and all modifications
37 and enhancements thereof (including ownership of all trade secrets, copyrights and other
38 intellectual property rights pertaining thereto), subject only to the licenses expressly granted to

1 Customer herein by Spillman, regardless of whether Customer, its employees, or contractors
2 may have contributed to the conception or development of any part of the Software, including
3 Updates or Custom Software Modifications.

4 6.7 Third Party Software. The Software may also include Third Party Software separately
5 licensed to Spillman from third party licensors. Unless a separate Third Party Software license
6 agreement is provided to Customer, such Third Party Software is sublicensed to Customer and
7 protected pursuant to the terms of this Agreement, and may be used only in conjunction with
8 Spillman's Software. This Agreement does not provide Customer with title or ownership of the
9 Software or any component thereof, but only a license to use. Spillman and its licensors
10 specifically reserve all rights not expressly granted to Customer in this Agreement. Customer
11 must keep the Software free and clear of all claims, liens, and encumbrances.

12 6.8 License for Replacement Products or Modules. In the event Spillman releases any new
13 Software product or module that Customer desires to install as a replacement for a product or
14 module licensed under this Agreement (and that Customer would not already be entitled to
15 receive under the Warranty provisions of this Agreement or under the Maintenance and
16 Support Agreement), Spillman will not require Customer to pay an additional license fee to
17 license the replacement product or module. In addition, the license for the replacement product
18 or module must be subject to the same terms and conditions as the license for the original
19 product or module.

20 **Section 7: Scope of Rights**

21 7.1 Customer may install and use the Software on any equipment, at any location and at any
22 facility owned or controlled by Customer within the city limits of Tracy, California. Customer
23 shall give Spillman prior written notice if the location of the Software installation or Customer's
24 facility changes. The foregoing does not authorize Customer to make any additional copies of
25 the Software, except to the extent otherwise authorized by this Agreement.

26 7.2 Customer Use Only. Customer may use and execute the Software only for purposes of
27 serving the internal needs of Customer's business, except as specifically set forth in this
28 Agreement. The Customer may use the Software to (a) operate the System; (b) conduct internal
29 training and testing, and (c) perform disaster recovery, backup, archive and restoration testing,
30 and implementation.

31 7.3 Copies. Customer may make a reasonable number of copies of the Software in machine-
32 readable, object code form, for backup and archival purposes only, provided that Spillman's
33 proprietary notices are included. Such backup copies must not be used for productive use,
34 except to the extent required if the primary Software installation is not functioning. Customer
35 may reproduce (photocopy) the Documentation according to Customer's needs for the
36 authorized use of the Software. Except as required under the California Public Records Act,
37 Customer may not distribute any of the Documentation for use outside of the Customer's
38 primary place of business.

1 7.4 Shared Agency Arrangements. If Customer and a third party entity (the "Shared
2 Agency") desire to enter into an arrangement whereby Customer will act as a "Host Agency"
3 and permit the Shared Agency to access the Software through Customer, an Addendum to this
4 Agreement will be required. Spillman will bill Customer in accordance with the terms of that
5 Addendum directly for the applicable license fees, and Customer agrees to be responsible for
6 payment of such invoices in accordance with the terms of that Addendum and this Agreement.
7 Customer shall require the Shared Agency to comply with the terms of this Agreement and
8 shall notify Spillman and cooperate as reasonably requested by Spillman in the event of any
9 non-compliance by the Shared Agency.

10 **Section 8: Compensation and Terms of Payment**

11 8.1 Compensation. This is a fixed price, not to exceed Agreement. The total price to be paid
12 to Spillman in consideration of the System (excluding taxes per Section 8.4 below) must not
13 exceed \$2,259,672 This price is inclusive of all Products and Services specified in this Agreement
14 including all shipping, handling and miscellaneous charges through the one-year Warranty
15 Period. This amount must be the maximum price to be paid to Spillman by the Customer
16 through the one-year Warranty Period, unless modified by mutual agreement through the
17 Change Order process described in Section 23, Changes in Work. All prices listed in Exhibit H,
18 Pricing Summary and Detail are valid until the end of the one-year Warranty Period and subject
19 to change only through the change order process as described in Section 23, Changes in Work.

20 8.2 Terms of Payment. Upon completion of each milestone identified in Exhibit I, Payment
21 Schedule, Spillman will invoice the Customer for the Products and Services related to the
22 milestone in accordance with the Schedule. Upon receipt of Spillman's invoice, the Customer
23 must review in a timely manner the tasks, Products, and Services associated with the milestone.
24 If it appears to the Customer from the then available information that the tasks, Products, and
25 Services comply with the terms and conditions of this Agreement, the Customer must pay the
26 invoice within the time period specified below. Should the Customer reject Spillman's request
27 for payment for good cause, the Customer must provide in writing the reasons for its rejection
28 within thirty days of receipt of Spillman's request for payment. The Customer must pay all
29 undisputed invoices within 45 days of receipt. Payment of any invoice does not constitute a
30 waiver of the Customer's right to reject the System in whole or in part if the requirements for
31 Final System Acceptance are not met.

32 8.3 Taxes. Customer is solely responsible for the payment of any and all sales or use taxes
33 resulting from this Agreement and its purchase of the products and services described herein.
34 If Customer is a tax-exempt organization, Customer will provide Spillman with documentation
35 required by the taxing authority to support such exemption.

36 8.4 Late Payments. If Customer fails to pay any amounts owed when due, Spillman may
37 assess interest at one percent (1.0%) per month (12% per year) on all overdue amounts, or the
38 highest rate permitted by law, whichever is less.

1 **Section 9: Support**

2 9.1 Spillman must provide support and maintenance services through the one-year
3 warranty period at no extra charge.

4 9.2 After Final System Acceptance, Spillman must provide maintenance and support
5 services to Customer with respect to the Software, pursuant to the terms of Exhibit G,
6 Maintenance and Support Agreement.

7 **Section 10: Customer Responsibilities**

8 10.1 Spillman Application Administrator. Customer is responsible for selecting a Spillman
9 Application Administrator to operate the Software on Customer's own equipment, who has
10 been certified by Spillman as set forth in Exhibit G, Maintenance and Support Agreement and is
11 familiar with the information, calculations, and reports that serve as input and output of the
12 Software. Spillman reserves the right to refuse assistance if the Spillman Application
13 Administrator seeks assistance with respect to any matters not directly relating to System
14 operation.

15 10.2 Additional Components. Other components (hardware and/or software) may be desired
16 for use with the Software. Spillman assumes no responsibility under this Agreement for
17 obtaining and/or supporting such components except as expressly agreed in writing.

18 10.3 Proper Environment. Customer is responsible, with advice and direction from Spillman,
19 for ensuring a proper environment and proper utilities for the computer system on which the
20 Software will operate.

21 10.4 Data Conversion Services. Except as expressly agreed in writing, Spillman assumes no
22 responsibility under this Agreement for converting Customer's data files for use with the
23 Software.

24 10.5 Improper Use. Customer shall use reasonable efforts to prevent its employees and
25 independent contractors from making unauthorized copies of the Software or improperly using
26 the Software. If Customer discovers any such problems, it will promptly notify Spillman and
27 take commercially reasonable actions to resolve the problem as soon as reasonably possible.

28 **Section 11: Proprietary Protection and Restrictions**

29 11.1 Third Party Access and Queries. Customer may not allow any other agency, entity, or
30 individual to use or have access to the Software in any manner other than inquire-only unless
31 expressly authorized by this Agreement. Except as specifically authorized by this Agreement,
32 queries may be conducted solely for Customer's internal business purposes, and Customer may
33 not query the Software, or permit any third party to query the Software, for a third party's
34 business purposes.

1 11.2 Restrictions. Customer may not use, copy, modify, rent, share or distribute the Software
2 (electronically or otherwise), or any copy, adaptation, transcription, or merged portion thereof,
3 except as expressly authorized by this Agreement. Customer may not translate, modify, reverse
4 assemble, reverse compile, or otherwise reverse engineer the Software.

5 11.3 Competitive Use. Unless authorized by this Agreement, the following conditions shall
6 apply: Customer may not utilize or permit a third party to access or utilize any part of the
7 Software (including the Utilities) in any manner that competes, directly or indirectly, with any
8 product or service provided by Spillman. This includes, without limitation, using the Software
9 (or its Utilities) to develop any software, interfaces or other products that compete with
10 Spillman's products or services, or using interfaces or other products connecting to the database
11 of the Software in connection with a third party's competing product.

12 11.4 No Service Bureau, Etc. No service bureau work, multiple-user license, or time-sharing
13 arrangement is permitted, except as expressly authorized in writing by Spillman. Unless
14 authorized by this Agreement, Customer may not install the Software on any other computer
15 system or use it at any other location without Spillman's express authorization obtained in
16 advance (which will not be unreasonably withheld).

17 11.5 Inspection. Customer hereby authorizes Spillman to enter Customer's premises in order
18 to inspect the Software in any reasonable manner during regular business hours, upon at least
19 15 days prior written notice, to verify Customer's compliance with the terms of this Agreement.

20 **Section 12: Spillman Responsibilities**

21 12.1 Project Management. Mark Jenson will be Spillman's Project Manager and Jeff Jensen
22 will be Spillman's back-up Project Manager for the Project.

23 12.2 Spillman's Key Personnel. If, at any time during the term of this Agreement, Spillman is
24 required to change the Project Manager for any reason, Spillman must replace the previous
25 Project Manager with a new Project Manager, reasonably acceptable to the Customer, within
26 twenty business days. Until the new Project Manager is fully acclimated to the Project,
27 Spillman's Manager of Project Management will work with the new Project Manager on the
28 Project Manager's responsibilities under this Agreement to minimize the impact that a change
29 in Project Management could have on the Project. A change in Project Manager will not be
30 grounds for a Change Order or other change in the terms of this Agreement or the deadlines
31 contained in Exhibit F, Project Schedule.

32 12.3 Subcontracting. Spillman may not subcontract any of its obligations under this
33 Agreement without the prior written consent of the Customer. The parties acknowledge that
34 Spillman intends to use Fisher Interface Solutions and Solutions II as subcontractors, and
35 Customer hereby consents to the use of such subcontractors. Unless otherwise agreed in
36 writing by the parties, all software code developed by such subcontractors will be owned by
37 Spillman and deemed part of the Software for purposes of this Agreement. Pursuant to Section
38 5.1 of this Agreement, Spillman shall be the Prime Contractor and shall remain fully responsible

1 for the performance of all obligations under this Agreement. Spillman shall also be fully
2 responsible to the Customer for the acts and omissions of any subcontractor and any persons
3 directly or indirectly employed by the subcontractor to the same extent Spillman would be
4 responsible for the acts or omissions of its own agents or employees. Nothing in this
5 Agreement creates any contractual obligations by the Customer to any subcontractor(s).

6 12.4 Compliance with Work Rules. While they are on Customer premises, Spillman's
7 personnel and subcontractors must comply with the Customer's working rules and policies,
8 including the Customer's security procedures, which are communicated to Spillman.

9 12.5 Background Checks and Removal of Personnel. Prior to being allowed to perform any
10 work on this Project, all non-Customer personnel assigned to the Project must submit to and
11 pass a background check by the Customer's Police Department. In addition, if, at any time, the
12 Customer determines an individual is not able to effectively perform the services required by
13 this Agreement, the Customer will notify and discuss the matter with Spillman in an attempt to
14 reach a mutual resolution. However, at the Customer's request for good cause, Spillman must
15 immediately remove the individual from the Project.

16 **Section 13: Independent Contractor**

17 13.1 Spillman is and shall remain an independent contractor in the performance of this
18 Agreement. Neither Spillman nor its employees or agents shall represent themselves to be, nor
19 shall they be, employees of Customer. Customer shall have no control over the detail, manner,
20 or methods of Spillman's performance under this Agreement. Personnel supplied by Spillman
21 to perform Spillman's obligations under this Agreement are not the Customer's personnel or
22 agents and Spillman assumes full responsibility for their actions.

23 13.2 Spillman is solely responsible for paying the compensation of any personnel supplied by
24 Spillman to perform Spillman's obligations under this Agreement. The Customer is not
25 responsible for providing workers' compensation, disability benefits, unemployment insurance
26 or any fringe benefits to these individuals, or for withholding incomes taxes or social security
27 for these individuals.

28 13.3 Spillman must indemnify, defend, and hold the Customer harmless for any applicable
29 tax, retirement contribution, social security withholding, overtime payment, unemployment
30 payment, or workers' compensation payment that the Customer may be required to make on
31 behalf of Spillman or any employee or subcontractor of Spillman for work done under this
32 Agreement. The Customer will give Spillman at least thirty (30) days prior written notice prior
33 to making any such payments on Spillman's behalf. At the Customer's election, the
34 indemnification amount may be deducted from any balance owing by the Customer to
35 Spillman.

36 **Section 14: Confidential Information**

37 14.1 Confidentiality Terms. Except as may be required under the California Public Records
38 Act, each party shall keep confidential all Confidential Information provided to it by the other

1 party, and shall not use such Confidential Information for any purpose other than the proper
2 purposes of this Agreement. A party may disclose Confidential Information only to its
3 employees and contractors who need to know such information, and who are bound to keep
4 such information confidential. Each party shall give the other party's Confidential Information
5 at least the same level of protection as it gives its own confidential information of similar nature,
6 but not less than a reasonable level of protection.

7 14.2 Restrictions on Disclosure. Except as may be required under the California Public
8 Records Act, Customer must not disclose the Software, and except as required under the
9 California Public Records Act, its Documentation, or any other Spillman documentation, (i) to
10 any competitor of Spillman, or (ii) to any other third party unless it has a need to know such
11 information for the proper purposes of this Agreement.

12 14.3 Notification. In the event of any disclosure request under the California Public Records
13 Act for Confidential Information, Customer must, to the extent permitted by law, give Spillman
14 prior notice of the disclosure and cooperate reasonably with Spillman if Spillman seeks to
15 dispute the need for or to limit the disclosure, to the extent permitted by applicable law.

16 **Section 15: Utilities; Restrictions on Usage**

17 15.1 Utilities. Spillman provides certain software Utilities as part of the Software. Spillman
18 may add, modify or remove Utilities from the Software; however, Spillman will not add,
19 modify or remove any Utilities that will materially and negatively impact System operation.
20 Failure to comply with this requirement is a material breach of this Agreement. The Utilities
21 contain material that is proprietary to Spillman and/or its licensors, and may be used only as
22 permitted by this Agreement.

23 15.2 Use of Utilities. Customer is permitted to use the Utilities for read-only operations in
24 connection with the authorized use of the Software, but may not allow third parties to use the
25 Utilities unless authorized by this Agreement and required for proper System operation and
26 support. Except as expressly set forth below, Customer is NOT permitted to use the Utilities or
27 any other software tools to write to Spillman's database in any manner, due to the potential for
28 data corruption and System slowdown or damage. Customer is permitted to use the "write"
29 feature of the ODBC interface to write to or modify the database; however, due to the potential
30 for data corruption and System slowdown or damage, Customer agrees that it does so solely at
31 its own risk.

32 15.3 Disclaimer. Spillman is NOT responsible for any breach of warranty, damages to the
33 Software or its database, data corruption, support issues, security issues or performance issues
34 arising out of Customer's or a third party's use of the Utilities other than for read-only
35 operations (even if permitted by Spillman) or use of any other software not specifically licensed
36 in this Agreement (including any third party querying or writing to the database). The parties
37 acknowledge and agree that Customer's normal use of the System only requires read-only use
38 of the Utilities (i.e., not use of the Utilities to write to, update or modify the System database),

1 and that such normal use of the System does not constitute use of the Utilities as disclaimed in
2 this Section 15.

3 **Section 16: Warranties**

4 16.1 System Warranty. Spillman warrants that the System will meet in all material respects
5 or exceed the Performance and Reliability Requirements as stated in Exhibit C, through the end
6 of the one year Warranty Period. The Software and each of its subsystems, components and
7 Interfaces must be capable of operating fully and correctly in all material respects in conjunction
8 with the System Hardware and Third Party Software. Spillman warrants that for the term of
9 this Agreement, the Products will perform in all material respects as described in this Section 16
10 and will remain in good working order. In the event the System does not meet these
11 warranties, Spillman must provide, at no additional charge, the necessary Software, Hardware,
12 or Services required to attain the levels or standards contained in these warranties or, if
13 Spillman fails or is unable to do so, Customer may terminate and seek the remedies available
14 under this Agreement or any other agreement between the parties.

15 16.2 Hardware Warranties. Spillman warrants that, at the time of delivery, the Hardware
16 will be new and unused. In addition, Spillman warrants that Customer will acquire good and
17 clear title to the Hardware, free and clear of all liens and encumbrances. All Hardware
18 warranties provided by the manufacturer will be passed through to the Customer. As Prime
19 Contractor for the Project, Spillman will be solely responsible for processing, managing and re-
20 installation of all Hardware or Third Party Software warranty claims that may be necessary
21 during the term of this Agreement.

22 16.3 Software Warranty. Spillman warrants, for Customer's benefit alone, that the Software
23 conforms in all material respects to the Documentation for the version of Software installed
24 from the time the first subsystem is operational in a live environment ("go-live") through the
25 end of the one year Warranty Period. This warranty is expressly conditioned on Customer's
26 observance of the operation, security, and data-control procedures set forth in the
27 Documentation included with the Software. In the event of a conflict between the
28 Documentation and this Agreement, the terms and conditions of this Agreement shall apply.

29 Spillman must, for the term of this Agreement, provide to Customer, at no additional cost, all
30 commercially available Updates within a reasonable time of their general commercial release to
31 other law enforcement agencies. If Spillman releases an Update but for any reason does not
32 recommend that Customer install such Update, Spillman will so notify Customer and the
33 parties will reasonably discuss the issue. In the event Customer is unable to successfully install
34 any Update, and assistance from Spillman is required through no fault of the Customer,
35 Spillman must provide all services necessary to complete the installation at no additional cost to
36 the Customer even if the services include on-site travel to Customer's facility in Tracy,
37 California. If the Customer is unable to successfully install any Update and submits a written
38 request to Spillman for assistance with the Update installation, Spillman must complete the
39 request within a reasonable period of time, without unnecessary delay.

1 16.4 Work Quality Warranty. Spillman warrants that all Services performed by Spillman and
2 its subcontractors will conform to industry practices and will be performed in a professional
3 and workmanlike manner, through the Warranty Period.

4 16.5 Regulatory Warranty. Spillman warrants that, for the term of this Agreement, the
5 System will comply with all processing and reporting requirements for State and Federal laws,
6 and regulations. If the Software requires updating due to a change in a State or Federal law, or
7 regulation, affecting the Customer, Spillman will provide and install these changes per a
8 mutually agreed to schedule at no additional charge to the Customer. Spillman will use
9 commercially reasonable efforts to provide and install said update no later than the date
10 required by the State or Federal law or regulation affecting the Customer. In the event the
11 Customer is notified of a change in State or Federal law or regulations that requires updating
12 the Software, the Customer will notify Spillman of that change as soon as reasonably possible.

13 16.6 Documentation Warranty. Spillman warrants that, for the term of this Agreement, the
14 Documentation for all licensed Software will be complete and accurate in all material respects.
15 The Documentation will be revised to reflect all Software, Custom Software Modifications (if
16 any), all Updates and all Interfaces provided by Spillman under this Agreement. All revisions
17 will be of equal or greater quality to the initial Documentation provided to the Customer and
18 will be delivered to the Customer within a reasonable time, or such time period mutually
19 agreed upon, after the Software, Custom Software Modifications, Updates or Interfaces have
20 been delivered to the Customer. Notwithstanding the above, all Documentation must be
21 complete and accurate in all material respects as a prerequisite to Final System Acceptance.

22 16.7 Service Warranty. During the term of this Agreement, Spillman must remedy
23 reproducible Defects in the System (excluding the Services), as set forth in Exhibit A.

24 **Section 17: Limits on Liability**

25 17.1 Limitations. Spillman is not responsible for obsolescence of the Software that may result
26 from changes in Customer's requirements. The warranties in Section 16 shall apply only to the
27 most current version of the Software issued by Spillman from time to time. Issuance of Updates
28 does not result in a renewal or extension of the Warranty Period. Spillman assumes no
29 responsibility for the use of superseded, outdated, or uncorrected versions of the Software. Such
30 warranty also excludes non-performance issues that result from third-party hardware or
31 software malfunction or defect; use of the Utilities, modification of the Software Source Code by
32 any person other than Spillman, or defects or problems that are outside of the reasonable
33 control of Spillman. Spillman is not responsible for any problems or errors with the Software or
34 Customer's system resulting from use of the ctpertl or dbload Utilities in any manner other than
35 read-only. Customer expressly acknowledges that any use of the "write" or "update" features
36 of these Utilities may damage Customer's database or cause other problems with its system.

37 17.2 Limitation of Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS
38 AGREEMENT, SPILLMAN AND ITS LICENSORS DISCLAIM ANY AND ALL PROMISES,

1 REPRESENTATIONS, AND WARRANTIES WITH RESPECT TO THE SOFTWARE,
2 INCLUDING ITS CONDITION, ITS CONFORMITY TO ANY REPRESENTATION OR
3 DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS, TITLE, NON-
4 INFRINGEMENT, AND ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR
5 PURPOSE OR USE.

6 17.3 Limitation of Liability. THE CUMULATIVE LIABILITY OF SPILLMAN AND ITS
7 LICENSORS TO CUSTOMER FOR ALL CLAIMS RELATING TO THE SOFTWARE AND THIS
8 AGREEMENT, INCLUDING ANY CAUSE OF ACTION SOUNDING IN CONTRACT, TORT,
9 OR STRICT LIABILITY, AND INCLUDING ANY REFUND UNDER SECTION 21.4, MONEY
10 BACK GUARANTEE, OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF
11 ALL FEES PAID TO SPILLMAN HEREUNDER. This limitation of liability is intended to apply
12 without regard to whether other provisions of this Agreement have been breached or have
13 proven ineffective. Spillman shall have no liability for the loss of data or documentation, it
14 being understood that Customer is responsible for reasonable backup precautions.

15 17.4 Limitation of Damages. IN NO EVENT SHALL SPILLMAN AND ITS LICENSORS BE
16 LIABLE FOR ANY LOSS OF PROFITS; ANY INCIDENTAL, SPECIAL, PUNITIVE, OR
17 CONSEQUENTIAL DAMAGES; OR ANY CLAIMS OR DEMANDS BROUGHT AGAINST
18 CUSTOMER BY THIRD PARTIES, EVEN IF SPILLMAN OR ITS LICENSORS HAVE BEEN
19 ADVISED OF THE POSSIBILITY OF SUCH CLAIMS OR DEMANDS. This limitation upon
20 damages and claims is intended to apply without regard to whether other provisions of this
21 Agreement have been breached or have proven ineffective. This limitation upon damages and
22 claims is limited to the performance of the System (including any claims related to the
23 functionality or use of, or bugs or errors in, the System), and activities done in the course and
24 scope of providing professional services and shall not apply to any other claims for personal
25 injury or death arising from the conduct of Spillman's employees or agents.

26 **Section 18: Indemnification**

27 Spillman agrees to defend Customer against any and all third party claims, demands, lawsuits
28 or legal actions arising out of any actual or alleged infringement of any trademark, copyright,
29 trade secret, or U.S. patent by the Software, and Spillman must pay any damages, costs and
30 expenses (including reasonable attorneys' fees) finally awarded in such action or paid to settle
31 the action. Spillman will not be required to indemnify Customer unless (i) Customer promptly
32 notifies Spillman of any such claim; (ii) Customer gives Spillman sole control of the defense and
33 all settlement negotiations, and the authority to represent Customer in defending the claim; and
34 (iii) Customer provides Spillman with any information and assistance that Spillman reasonably
35 requests in defending against the claim. Customer may at its option and expense be represented
36 by separate counsel in any such action. If a court or other legal authority finds that any part of
37 the Software infringes a third party's intellectual property rights, or if Spillman believes that it
38 infringes, Spillman must use reasonable efforts to obtain a license under the rights that have
39 been infringed, to modify the Software so it is no longer infringing, or to provide to Customer
40 substitute software that is non-infringing; provided that if in Spillman's judgment such options

1 are not commercially reasonable, Spillman may terminate the license for the Software or the
2 infringing portion thereof upon written notice to Customer. If such termination occurs before
3 Final System Acceptance, Spillman shall refund all amounts paid for the terminated Software; if
4 such termination occurs after Final System Acceptance, Spillman will refund a pro rata amount
5 of the amounts paid for the terminated Software, based upon a five year straight line
6 depreciation from the date of Final System Acceptance. If the termination of the Software
7 license results in a material adverse effect on the entire System, the above termination and
8 refund requirements shall apply to all Products. Spillman will have no liability for
9 infringement arising out of modification of the Software Source Code by any party other than
10 Spillman, use of an outdated version of the Software, or the combination or use of the Software
11 with any other software, hardware, equipment, product or process not furnished or specified by
12 Spillman, if use of the Software alone and in its current, unmodified form would not have been
13 an infringement. Spillman is not liable for any infringement claims based upon third party
14 software or hardware. This Section 18 states Spillman's entire obligation with respect to any
15 claim for infringement or misappropriation of any third party intellectual property rights.

16 **Section 19: Insurance**

17 19.1 General. Spillman shall, throughout the duration of this Agreement, maintain insurance
18 to cover Spillman, its agents, representatives, and employees in connection with the
19 performance of services under this Agreement at the minimum levels set forth herein.

20 19.2 Commercial General Liability (with coverage at least as broad as ISO form CG 00 01)
21 "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general
22 aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and
23 property damage.

24 19.3 Automobile Liability (with coverage at least as broad as ISO form CA 00 01, for "any
25 auto") "per occurrence" coverage shall be maintained in an amount not less than \$1,000,000 per
26 accident for bodily injury and property damage.

27 19.4 Workers' Compensation coverage shall be maintained as required by the State of
28 California.

29 19.5 Professional Liability "claims made" coverage shall be maintained to cover damages
30 that may be the result of errors, omissions, or negligent acts of Spillman in an amount not less
31 than \$1,000,000 per claim.

32 19.6 Endorsements. Spillman shall obtain endorsements to the automobile and commercial
33 general liability with the following provisions:

34 19.6.1 The Customer (including its elected officials, officers, employees, agents, and
35 volunteers) shall be named as an additional "insured."

36 19.6.2 For any claims related to this Agreement, Spillman's coverage shall be primary
37 insurance with respect to the Customer. Any insurance maintained by the Customer shall be
38 excess of the Spillman's insurance and shall not contribute with it.

1 19.7. Notice of Cancellation. Under the above Spillman insurance policies, the insurer will
2 provide to the named insured(s) ten (10) days prior written notice of cancellation for non-
3 payment and thirty (30) days prior written notice of cancellation for other reasons. Notice of
4 any changes to such policies will also be provided to all named insureds.

5 19.7 Authorized Insurers. All insurance companies providing coverage to Spillman shall be
6 insurance organizations authorized by the Insurance Commissioner of the State of California to
7 transact the business of insurance in the State of California.

8 19.9. Insurance Certificate. Spillman shall provide evidence of compliance with the insurance
9 requirements listed above by providing a certificate of insurance, in a form satisfactory to the
10 Customer, no later than five (5) days after the execution of this Agreement.

11 19.10. Substitute Certificates. Prior to the policy expiration date of any insurance policy
12 required by this Agreement, Spillman shall, upon request of Customer, provide a substitute
13 certificate of insurance, provided that any changes to such insurance policies are agreed upon
14 with the insurer at least thirty (30) days prior to the policy expiration date.

15 19.11. Spillman's Obligation. Maintenance of insurance by Spillman as specified in this
16 Agreement shall in no way be interpreted as relieving Spillman of any responsibility
17 whatsoever (including indemnity obligations under this Agreement), and Spillman may carry,
18 at its own expense, such additional insurance as it deems necessary.

19 **Section 20: Dispute Resolution**

20 If a dispute arises out of or relates to this Agreement, the following procedure will be used to
21 resolve any questions of fact or interpretation. First, the parties will each reduce the dispute
22 and their respective position to writing. Each party will then forward a copy of its writing to
23 the other along with a proposed resolution. Within ten business days, each party will reply to
24 the other's proposal, commenting on the proposed resolution and offering additional
25 suggestions for resolution, if appropriate and applicable. If this process does not result in a
26 mutually agreeable resolution, the writings and replies will be forwarded to the City Manager
27 for resolution. The City Manager will consider the facts and resolutions proposed and may then
28 propose a solution to the problem, which the parties will consider in good faith. Nothing in this
29 procedure prohibits the parties from seeking remedies available to them at law.

30 **Section 21: Termination**

31 21.1 Termination Without Cause. Customer may terminate this Agreement at any time upon
32 written notice to Spillman, without cause, subject to payment of all undisputed invoices. The
33 Money back guarantee provisions in Section 21.4 are not applicable in the event of a
34 Termination Without Cause by Customer.

35 21.2 Termination for Cause. Either party may terminate this Agreement, in addition to
36 seeking any other available remedies, if the other party breaches any material term of this
37 Agreement and does not correct such breach within thirty days following written notice of the
38 breach from the other party. Repudiation or failure to accept the Software without cause

1 constitutes a material breach of this Agreement. In addition to or in lieu of termination, a party
2 may seek any other remedies that may be available at law or in equity.

3 If a release condition occurs and has not been cured under Exhibit "J" (Source Code Escrow
4 Agreement), Spillman shall, within 15 days thereafter, instruct the Source Code escrow agent
5 identified in Exhibit "J" to release the Source Code to Customer upon Customer's request.

6 21.3 Effect of Termination. If termination of this Agreement occurs after go-live of the first
7 Subsystem or anytime from that point forward up to Final System Acceptance, all rights
8 granted to Customer will terminate and revert to Spillman and/or its licensors. Customer will
9 be entitled to a reasonable transition period, not to exceed thirty-six months from the date of
10 termination, to give Customer a reasonable opportunity to transition to a new software system
11 from another vendor that is a substitute for the Software. During this transition period,
12 Customer may continue to use the Software pursuant to the terms of this Agreement. The
13 parties shall remain liable for damages caused by breach, subject to the agreed-upon limitations
14 of liability. Nothing herein prohibits or delays Spillman from obtaining an injunction to stop
15 Customer from using, distributing or copying any part of the Software outside of the scope of
16 its license and rights or from otherwise infringing or misappropriating any intellectual property
17 of Spillman. The parties waive the requirement of posting a bond in connection with any
18 request for injunctive relief. Upon completion of the transition period, Customer must return or
19 destroy, as requested by Spillman, all copies of the Software in Customer's possession (whether
20 modified or unmodified), and all related documentation, Confidential Information and other
21 materials pertaining to the Software (including all copies thereof). Customer agrees to certify
22 Customer's compliance with such obligation upon Spillman's request. If Customer has any
23 outstanding undisputed payment obligations under this Agreement, Spillman may accelerate
24 and declare all such obligations of Customer immediately due and payable by Customer as a
25 liquidated sum and proceed against Customer in any lawful way for satisfaction of such sum.

26 21.4 Money Back Guarantee. In addition to the termination provisions in Section 21,
27 Customer shall have the option to terminate this Agreement if Spillman fails to achieve Final
28 System Acceptance due to a material contract breach. Such termination option must be
29 exercised in writing . Upon such termination, Spillman agrees that all monies paid to Spillman
30 by Customer under the terms of this Agreement shall be refunded to Customer, as liquidated
31 damages, within 60 days of written notice of termination due to failure to achieve Final System
32 Acceptance. Spillman and Customer hereby agree that it is and will be impracticable and
33 extremely difficult to ascertain and fix the Customer's actual damage from any failure to
34 achieve Final System Acceptance and, thus, that Spillman must pay as liquidated damages to
35 Customer the amounts specified in this section, which is the result of the parties' reasonable
36 endeavor to estimate fair compensation therefor.

37 **Section 22: Transfer of Title and Risk of Loss**

38 Title and ownership of the Hardware shall remain vested in Spillman and Spillman must bear
39 all risk of loss to the Hardware until the Hardware is delivered to the Customer and Spillman

1 installs and tests such Hardware, at which time Spillman must execute and deliver a bill of sale
2 for the Hardware. For purposes of this Section only, the term "tests" means Spillman has
3 demonstrated to the Customer's Project Manager or designee that the applicable Hardware has
4 been delivered and installed and is operational. Passage of title and ownership of the Hardware
5 does not constitute "acceptance" of any task, Products, or Services and shall not constitute a
6 waiver of the Customer's right to reject the System, in whole or in part, if the requirements for
7 Final System Acceptance are not met.

8 **Section 23: Changes in Work**

9 If, in the course of performing this Agreement, Spillman or the Customer proposes changes to
10 the Project, and informal consultation with the other party indicates that a change in the terms
11 and conditions of this Agreement may be warranted, Spillman or the Customer may request a
12 change in this Agreement. The changes must be processed in the following manner: Spillman
13 will forward a letter outlining the proposed changes, including any changes in the fees, the
14 Statement of Work, the Project Schedule, or related contract documents, to the Customer. The
15 parties will meet to discuss and negotiate the requested change order documents. Upon
16 completion of those negotiations, the negotiated change order documents will be submitted to
17 the Customer for approval. Upon approval by the Customer, a written "Order to Proceed" with
18 the approved changes will be submitted to Spillman. Any change order will not render
19 ineffective or invalidate any other portions of this Agreement.

20 **Section 24: Miscellaneous**

21 24.1 Entire Agreement; Amendment. This Agreement, together with its exhibits, which are
22 attached hereto and incorporated herein by reference, constitutes the complete agreement
23 between the parties with respect to the Software and other subject matter hereof. No
24 modification of this Agreement shall be binding unless it is in writing and is signed by an
25 authorized representative of each party.

26 24.2 No Rights in Third Parties. This Agreement is made for the benefit of the Customer and
27 Spillman and not for the benefit of any third parties.

28 24.3 Calendar Days. Unless otherwise stated, all references in this Agreement to days refer to
29 calendar days.

30 24.4 Headings. The headings used in this Agreement are solely for the convenience of the
31 parties. They are not intended to affect the meaning or interpretation of this Agreement.

32 24.5 Assignment. Customer may not assign or transfer this Agreement or any of its rights or
33 duties hereunder to any third party without Spillman's prior written consent, which shall not be
34 unreasonably withheld. Spillman may not assign or transfer this Agreement or any of its rights
35 or duties hereunder to any third party without Customer's prior written consent, which shall
36 not be unreasonably withheld. Notwithstanding the foregoing, Spillman may, upon written
37 notice to Customer, assign this Agreement to a third party in connection with a merger with the

1 assigning party or acquisition of all or substantially all of Spillman's assets or business to which
2 this Agreement relates.

3 24.6 Successors and Assigns. This Agreement is binding on and inures to the benefit of the
4 parties and their respective successors and assigns.

5 24.7 Business License and Permits. Spillman and any if its subcontractors must obtain and
6 maintain a City of Tracy, California, business license tax certificate for the duration of this
7 Agreement. In addition, Spillman is responsible for obtaining any local, state, and federal
8 permits or approvals required for it to fulfill its obligations under this Agreement.

9 24.8 Governing Law. This Agreement will be governed by the laws of the state of California,
10 not including conflicts of laws provisions. The parties hereby submit to the exclusive
11 jurisdiction and venue of California state and federal courts with respect to any action between
12 the parties relating to this Agreement. In any such action, the prevailing party shall be entitled
13 to an award of its reasonable costs and attorneys' fees from the other party.

14 24.9 No Waiver. Any waiver by either party of a default or obligation under this Agreement
15 will be effective only if in writing. Such a waiver does not constitute a waiver of any
16 subsequent breach or default. No failure to exercise any right or power under this Agreement
17 or to insist on strict compliance by the other party will constitute a waiver of the right in the
18 future to exercise such right or power or to insist on strict compliance.

19 24.10 Injunctive Relief. Customer acknowledges that, in the event of Customer's breach of any
20 of the confidentiality terms or scope of use restrictions in this Agreement, Spillman will not
21 have an adequate remedy in money or damages. Spillman shall therefore be entitled to obtain
22 an injunction against such breach from any court of competent jurisdiction immediately upon
23 request, without the necessity of posting bond, in addition to any other remedies that may be
24 available at law or in equity.

25 24.11 Limitation of Actions. No action, whether based on contract, strict liability, or tort,
26 including any action based on negligence, arising out of the performance of services under this
27 Agreement, may be brought by either party more than three years after such cause of action
28 accrued. However, action for nonpayment may be brought within two years the date of the last
29 payment was received by Spillman.

30 24.12 Notices. Any notices required or permitted under this Agreement must be in writing
31 and delivered in person or sent by registered or certified mail, return receipt requested, with
32 proper postage affixed, or sent by commercial overnight delivery service with provisions for a
33 receipt.

34 24.13 Severability. If any term of this Agreement is held to be invalid or void by any court or
35 tribunal of competent jurisdiction, it shall be modified by such court or tribunal to the minimum
36 extent necessary to make it valid and enforceable. If it cannot be so modified, it shall be severed

1 from this Agreement and all the remaining terms of this Agreement shall remain in full force
2 and effect.

3 24.14 Force Majeure. A party shall be excused from delays or failure to perform its duties,
4 other than payment obligations, to the extent such delays or failures result from acts of nature,
5 riots, war, acts of public enemies, fires, epidemics, labor disputes, or any other causes beyond
6 its reasonable control. The parties will promptly inform and consult with each other as to any of
7 the above causes that in their judgment may or could be the cause of a substantial delay in the
8 performance of this Agreement. Either party may, in its discretion, terminate this Agreement if
9 a delay in performance by the other party exceeds or is reasonably expected to exceed six
10 months.

11 24.15 Export. In the event export of the Software is expressly permitted by Spillman,
12 Customer may only export the Software (including any related materials) as authorized by U.S.
13 law and any other applicable jurisdiction. In particular, the Software may not be exported into
14 any country where such export is prohibited by law, regulation or governmental order.

15 24.16 Survival of Provisions. All provisions of this Agreement that by their nature would
16 reasonably be expected to continue after the termination of this Agreement will survive the
17 termination of this Agreement, including, without limitation, the following Sections and
18 Paragraphs:

- 19 Section 6 License
- 20 Section 7 Scope of Rights
- 21 Section 8 Compensation and Terms of Payment (if applicable)
- 22 Section 10.5 Improper Use
- 23 Section 11 Proprietary Protection and Restrictions
- 24 Section 13 Independent Contractor
- 25 Section 14 Confidential Information
- 26 Section 15 Utilities; Restrictions on Usage
- 27 Section 16 Warranties
- 28 Section 17 Limits on Liability
- 29 Section 18 Indemnification

30 Notwithstanding the foregoing, Sections 6 and 7 are subject to termination by Spillman
31 pursuant to the terms of Section 21.2 for a material breach of this Agreement by Customer,
32 either during the term of this Agreement or during the survival period thereafter. Such
33 termination remains subject to the transition period terms of Section 21.3, unless Customer has
34 failed to pay amounts due under the terms of this Agreement after notice and an opportunity to
35 cure pursuant to the terms of Section 21.2.

1 IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly
2 authorized representatives as set forth below. This Agreement is not effective, and the license
3 of the Software will not commence, until it has been executed by an authorized representative
4 of both Customer and Spillman.

5 NOTARIAL ACKNOWLEDGEMENT OF EXECUTION BY SPILLMAN SIGNATORIES MUST
6 BE ATTACHED

7 (place corporate seal here)

1 Accepted and Approved:
2 Customer: _____
3 By: _____
4 Print Name: _____
5 Title: _____
6 Date: _____

7 **Spillman Technologies, Inc.**

8 By:  _____
9 Print Name: Joe Lunt
10 Title: VP Sales & Marketing
11 Date: 02-22-12

12 **Approved as to Form**

13 By: _____
14 Print Name: _____
15 Title: City Attorney
16 Date: _____

Spillman Technologies, Inc.
Public Safety Software Implementation
**Exhibit A: Statement of Work
("SOW")**

Between

**Spillman Technologies, Inc.
("Spillman")**

And

**Tracy Police Department
("Customer")**

Prepared

February 8, 2011

By

Spillman Technologies, Inc.

Table of Contents

Introduction and Purpose	3
Project Objectives	4
Project Assumptions and General Responsibilities	5
Project Tasks & Responsibilities.....	12
1. Conduct Pre-Implementation Meeting	12
2. Project Analysis and Planning Meeting	13
3. Finalize Project Plan.....	15
4. Hold Project Kickoff Meeting	16
5. Order Hardware.....	17
6. Order Third Party Products	17
7. Develop Data Entry Standards	18
8. Conduct First Onsite Map Training.....	19
9. Install and Configure Hardware and Operating System	20
10. Install Core Spillman Application.....	21
11. Configure External Interfaces (see Exhibit B, Technical Interfaces Descriptions)	22
12. Conduct Project Team Training	24
13. Conduct System Administration Training.....	24
14. Conduct Follow-up OnSite Map Trainings	25
15. Conduct Functional Testing	26
16. Conduct End-User Training	28
17. Cut over to Live Operations	28
18. Final System Acceptance	29
Signatures.....	31

Introduction and Purpose

1

2 This Statement of Work (SOW) guides the primary activities and responsibilities for the
3 implementation of the System. It documents project implementation requirements, identifies
4 each major task within the implementation process, sets expectations for each party,
5 prioritization of defects and the resolution until Final System Acceptance, and identifies the
6 criteria by which Spillman and the Customer will consider a task complete. Both parties
7 understand and agree that completion of a task specifically does not imply any form of
8 acceptance. Customer's acknowledgement of task completion does not constitute a waiver of
9 the Customer's right to reject the System, in whole or in part, if the requirements for Final
10 System Acceptance are not met. In the event of a conflict between the Professional Services and
11 Software License Agreement (the "Agreement") and this Exhibit A, Statement of Work, the
12 terms and conditions of the Agreement shall prevail.

Project Objectives

Ongoing objectives of the Public Safety Software Implementation project:

- Provide a comprehensive public safety software solution to facilitate data management
- Provide the software and services necessary to enable interoperability and real-time data sharing
- Provide initial and ongoing system and application administration training to ensure proper set-up and the efficient ongoing use of software modules
- Establish agency data entry standards
- Establish an ongoing training program to keep end users familiar with current and future software functionality

Specific SOW objectives:

- Complete the Project
- Configure, set-up, and install the server
- Install and configure the System
- Install and configure the Spillman standard external interfaces
- Develop, install, test, debug and document custom external interfaces
- Remedy Defects per the Service Warranty on p. 9 of this Exhibit
- Provide on-site system set-up consultation, system and application administration training
- Provide comprehensive end-user training and assistance with setting up code tables
- Provide go-live assistance
- Support Customer as may be required during the Final System Acceptance Test Period
- Complete the Project and achieve Final System Acceptance

1 **Project Assumptions and General Responsibilities**

2 The Project will be implemented in two phases as described below. Phase 2 will include sub-
3 phased implementation with understood flexibility by the Customer and Spillman to combine
4 sub-phases as determined appropriate by both parties.

5 Phase 1, Project Planning.

6 Phase 1 must be completed within an agreeable timeframe between Spillman and Customer to
7 facilitate a successful project implementation after contract execution. An estimated time for
8 completion of Phase 1 has been provided in Exhibit F, Project Schedule. Phase 1 shall consist of
9 pre-implementation planning activities to a) prepare Customer for System installation, b)
10 review all Project requirements, and 3) allow Spillman sufficient time to conduct a pre-
11 installation analysis of the current environment and identify any problem or deficiency that
12 would impede Spillman's ability to successfully install the System and complete the
13 requirements of this Agreement.

14 Spillman understands and agrees that Spillman's cooperation with 3rd party representatives
15 from vendors and other government agencies is imperative to achieving a successful Project.
16 Spillman warrants that it will cooperate and work effectively with all 3rd party representatives
17 from other vendors or government agencies as may be necessary to ensure successful Project
18 completion.

19 Upon completion of Phase 1, Spillman must prepare and submit to the Customer a "Site
20 Analysis Report". The Site Analysis Report will summarize the following:

- 21 • Events of Phase 1
- 22 • Necessary changes needed by the Customer for a successful completion of Phase 2.
- 23 • Change Order details (if necessary)

24 Upon receipt of the report, the parties will meet to discuss what actions, if any, are necessary to
25 update the contract documents in preparation for System installation. If applicable, a mutually
26 agreeable change order will be negotiated and executed by the parties.

27 Phase 2, System Installation.

28 On the date the Customer formally accepts the Site Analysis Report, and a Change Order (if
29 applicable) has been executed, the Customer will issue a written "Order to Proceed" with
30 System installation. Issuance of an Order to Proceed does not affect the Customer's ability to
31 reject the System in whole or in part if Spillman does not successfully achieve the conditions for
32 Final System Acceptance.

1 The Customer shall be responsible for making Customer-approved modifications identified in
2 the Site Analysis Report.

3 Upon completion of the Customer-approved tasks identified in the Site Analysis Report, System
4 Installation must commence in accordance with Exhibit F, Project Schedule.

5 **General Assumptions**

- 6 • Spillman System will be implemented in a Windows environment
- 7 • Customer will ensure the network is available and appropriately configured per the
8 network evaluation
- 9 • Hardware that meets or exceeds Spillman's current hardware recommendations is
10 available, patched per Spillman's recommendations, and is appropriately configured
- 11 • Wireless connectivity will be provided by the Customer via either a commercial or
12 managed IP-based wireless network with average data rates of 256 kbs between the
13 mobile client and the Spillman server
- 14 • Customer is able to obtain State user and terminal ORIs in a timely fashion
 - 15 - Project schedule could be delayed
 - 16 - CLETS/NCIC interface may not be ready for end-user training, live connection is not
17 necessary for training exercises
- 18 • Third party vendors provide required information for interface configuration
- 19 • The Customer will provide appropriate technical and management resources to
20 participate in the implementation.

21 **Customer Project Team Responsibilities**

- 22 • Customer Project Manager. The Customer will assign a Project Manager and a back-up
23 Project Manager for the Project. General duties of Customer's Project Manager include,
24 but are not limited to:
 - 25 • Maintain effective communications with the Spillman Project Manager.
 - 26 • Facilitate Customer response to issues and concerns as communicated to the Customer
27 by the Spillman Project Manager.
 - 28 • Provide necessary onsite and dedicated VPN remote access as required to successfully
29 implement and support the installation and continued support of the Spillman system.
 - 30 • Participate in onsite project status meetings between Spillman and Customer for major
31 tasks.
 - 32 • Provide Spillman with approved project Change Order requests.
 - 33 • Coordinate required Customer tasks and responsibilities with the Spillman Project
34 Manager.

- 1 • Provide physical training facilities and supplies (e.g., projector, screen, whiteboard or
2 equivalent) as well as personal computers required for training end-users
- 3 • Coordinate tasks and resources with all Third Party Vendors for which Customer
4 contracts with to facilitate project activities.
- 5 • Ensuring management and end user personnel are available for training on days for
6 which they are scheduled

7 **Spillman Project Team Responsibilities**

8 Project Management. Mark Jensen will be Spillman's Project Manager and Jeff Jensen; will be
9 Spillman's back-up Project Manager for the Project. General duties of Spillman's Project
10 Manager include, but are not limited to:

- 11 • Functioning as a coordinator between Spillman's staff and the Customer's staff;
- 12 • Coordinating the deployment of Spillman's resources;
- 13 • Working with the Customer's Project Manager to plan all Project activities and tasks;
- 14 • Meeting on-site with the Customer's Project Management team for major milestones for
15 the duration of the project, to report on the Project's status and resolve outstanding
16 issues; facilitating conference calls as needed to ensure the project stays on schedule.
- 17 • Preparing monthly status reports and submitting each status report no later than five
18 business days prior to the next scheduled meeting;
- 19 • Ensuring Spillman's tasks identified in the Statement of Work are performed in
20 accordance with the Project Schedule;
- 21 • Acting as Spillman's point of contact for all matters relating to the Project and this
22 Agreement;
- 23 • Facilitating meetings between the Customer and Spillman's executives, when
24 scheduled or requested;
- 25 • Ensuring the Customer's Project Manager or designee receive necessary information
26 through regular and called meetings, written Documentation, and formal and informal
27 communications;
- 28 • Ensuring qualified experts from Spillman and Spillman's subcontractors are utilized on
29 this Project;
- 30 • Responding in writing to any written request from the Customer within five business
31 days from the date of request; and,
- 32 • Promptly responding when contacted by the Customer's Project Manager. In the event
33 Spillman causes delays or problems in the Project the Customer reserves the right to
34 modify the frequency of these meetings as deemed necessary and at no additional
35 charge to the Customer.
- 36 • Facilitating the submission and approval of change requests received from Customer.

- 1
 - 2
- Successfully completing all contract requirements associated with System implementation.

Prioritization of Defects until Final System Acceptance Service Warranty

Service Warranty. Spillman warrants that it will remedy any reproducible Defect in the System, as follows:

Priority Level 0 (P0) Defect

A Priority Zero Level (P0) Defect is a Defect that results in:

- The entire System or a core System component (e.g., HUB, RMS, CAD) goes down
- Loss of productive use of the System or a core System component

In the event a P0 Defect occurs during any 30 day Preliminary Acceptance Test Period, the Customer will immediately notify Spillman and the test period will be suspended. Spillman personnel shall promptly resolve the problem and the test period will re-commence at the point where it was suspended.

The 30-day Preliminary Acceptance Test period will be extended, as necessary, until Spillman has remedied all reported, reproducible P0 Defects.

In the event a P0 Defect occurs during the Final System Acceptance Test Period, the Customer will immediately notify Spillman and the test period will stop. Spillman personnel shall promptly resolve the problem and the test period will re-start at the beginning until the System has operated 30 consecutive days without recurrence of a P0 Defect.

Upon receipt of P0 software correction, the Customer has until the end of the following business day to test the software correction and place it into production. If the Customer does not place the software correction into production by the end of the following business day, the test period will resume or restart, as applicable.

Priority Level 1 (P1) Defect

A Priority One Level (P1) Defect is a Defect results in

- Inability to use a module (or a significant function such as UCR) within a System component
- The significant impact to System use such that an immediate workaround is not available
- Data loss
- Data corruption

In the event a P1 Defect occurs anytime during any 30 day Preliminary Acceptance Test Period, the Customer will immediately notify Spillman and the test period will be suspended. Spillman

1 personnel shall promptly resolve the problem and the test period will re-commence at the point
2 where it was suspended.

3 The 30 day Preliminary Acceptance Test period will be extended, as necessary, until Spillman
4 has remedied all reported, reproducible P1 Defects.

5 In the event a P1 Defect occurs during the Final System Acceptance Test Period, the Customer
6 will immediately notify Spillman and the test period will stop. Spillman personnel shall
7 promptly resolve the problem and the test period will re-start at the beginning until the System
8 has operated 30 consecutive days without recurrence of a P1 Defect.

9 Upon receipt of P1 software correction, the Customer has until the end of the following business
10 day to test the software correction and place it into production. If the Customer does not place
11 the software correction into production by the end of the following business day, the test period
12 will resume or restart, as applicable.

13 **Priority Level 2 (P2) Defect**

14 A Priority Two Level (P2) Defect is a Defect that results in:

- 15 • Productive, but incomplete, operation wherein a workaround that does not
16 unreasonably impact System operations is generally available. Examples of P2 Defects
17 include:
 - 18 - Deleting an image using Sentryx Image Administration Module leaves the
19 thumbnail on the names record.
 - 20 - Typing the transaction code instead of using the dropdown throws an error.
 - 21 - Field requires user to click or tab through the field to enable the 'Vehicle
22 Registration' option.
 - 23 - Defects of a severity level higher than those described above must be categorized
24 and remedied as P1 Defects.

25 In the event a P2 Defect occurs anytime during any test period, the Customer will immediately
26 notify Spillman, but the test period will continue. If possible, Spillman shall resolve the
27 problem during the acceptance period. If not, and by mutual agreement made reasonably and
28 in good faith, resolution will occur within a future bug fixes release, fixes release or software
29 update of the product. P2 Defects must be resolved, either by remedying the Defect or by
30 developing a mutually acceptable plan to remedy the Defect in a future bug fix release. Final
31 acceptance shall not be unreasonably withheld.

32 **Priority Level 3 (P3) Defect**

33 A Priority Three Level (P3) Defect is a minor Defect that does not affect operations and is
34 mainly cosmetic in nature. Examples include configuration issues that can be corrected by the
35 Customer; data integrity issues that must be addressed by the Customer; Help File Defects;
36 graphical user interface cosmetic Defects that can be corrected in a future release; or

1 enhancements that can be made in the future to the presently installed System. In the event a
2 P3 Defect occurs, Spillman may or may not correct the Defect within a future software fixed
3 release. Note that requested enhancements to the application are not Defects and fall outside of
4 the scope of the Defect Levels and acceptance testing.

5 **Final System Acceptance**

6 During all test periods, the Customer will need to maintain a log of any discovered Defects.
7 Defects will be classified and remedied according to severity using the Defect Level
8 Designations and Remedies listed in Exhibit A.

9 Final System Acceptance will occur at the end of the 30-day Final System Acceptance Test
10 period if/when:

- 11 • The System has operated for 30 consecutive days without a P0 Defect
- 12 • The System and operated for 30 consecutive days without a P1 Defect
- 13 • All P2 Defects have been corrected or a mutually agreeable resolution or plan to resolve
14 all P2 Defects has been developed and accepted by the customer.
- 15 • Spillman has completed all contractual obligations of the Agreement

16 Spillman needs to be notified in writing of any Defects before the end of the Final System
17 Acceptance Test period. If Spillman has not been notified of any Defects within the 30 day Final
18 System Acceptance Test period, the System will be deemed accepted.

19 P2 Defects that do not negatively impact System operations and P3 Defects will not stop or
20 extend the Final System Acceptance period.

Project Tasks & Responsibilities

The following section consists of project phases and individual project tasks, with the responsible party identified, that comprise the work necessary to complete the specific SOW goals and objectives. Spillman, with the support of the Customer, will perform the tasks through a combination of onsite presence, coordination via telephone, email, or other remote means, as appropriate.

Phase 1 (Planning)

1. Conduct Pre-Implementation Meeting

Task Description

The Spillman Project Manager will conduct an onsite Pre-Implementation meeting with the Customer Project Team. During the meeting Spillman will:

- Introduce the project team
- Exchange contact information
- Review the scope of work for the project
- Verify hardware specifications

Additionally, Spillman will provide pre-implementation checklists and questionnaires that the Customer will be responsible to complete prior to the kick-off meeting. Spillman will also provide a map data collection guide (GIS modification requirements) in preparation for the first on-site GIS training.

At this time, the Customer should also begin developing lists of existing code tables and, for each, list the data in each code table. This information will be required prior to Administrator training sessions.

Deliverables:

Pre-Implementation checklists
Information gathering questionnaires
Pre-Installation product demonstration training

Prerequisites

N/A

1. Conduct Pre-Implementation Meeting

<p>Spillman Responsibilities</p> <p>Conduct Pre-Implementation Meeting (PIM)</p> <p>Provide checklists and questionnaires</p>	<p>Customer Responsibilities</p> <p>Customer Project Manager and Project Team participation in Pre-Implementation Meeting</p> <p>Complete checklists and questionnaires prior to Kickoff Meeting</p> <p>Develop lists of existing codes tables and the data in each code table</p>
<p>Spillman Staff</p> <p>Project Manager</p> <p>Salesperson</p>	<p>Customer Staff</p> <p>Project Manager</p> <p>Project Team as assigned by Customer</p>
<p>Completion Criteria</p> <p>This task will be complete after Spillman has conducted the onsite Pre-Implementation Meeting and product demonstration training and provided the Customer with the pre-implementation checklists and questionnaires.</p>	

1

2. Project Analysis and Planning Meeting

<p>Task Description</p> <p>The Spillman Project Manager and Spillman Account Trainer will spend up to two days observing communications, reporting and records operations to understand how Customer currently conducts business. The purpose is to identify business processes that the software configuration will need to accommodate as well as areas where business processes will likely need to change to use the Spillman software most effectively. The Spillman Account Trainer will also work with Customer staff to review current forms and identify changes as may be necessary to streamline documents, forms and daily operations in anticipation of installing the new system.</p> <p>Spillman (serving as prime contractor) will work together with Solutions II (3rd Party) to conduct a detailed network analysis to identify and document any pre-existing conditions that may impede Spillman's ability to successfully install the system. Solutions II and Spillman will work with the Customer to ensure that all system components are up-to-date and current with required specifications. All system components requiring upgrades will be the responsibility of the Customer.</p> <p>The Spillman Project Manager and Systems Engineer will review with the Customer necessary functional requirements for all interfaces required for the project. Changes to the requirements, if any, will be documented and submitted for review to the Customer. Spillman, working</p>
--

2. Project Analysis and Planning Meeting

together with Solutions II, will also assist the Customer in identifying any deficiencies in the technical configuration of the existing Customer network that may impede ability to secure permission for state connection.

<p>Deliverables</p> <p>Spillman shall provide a written report identifying deficiencies, changes, upgrades, etc. that it deems necessary for the Customer to adequately prepare for the installation and successful use of the System</p>	<p>Prerequisites</p> <p>Pre-Implementation Meeting</p>
<p>Spillman Responsibilities</p> <p>Observe communications, reporting and records operations</p> <p>Review current forms and identify changes, assist in the review</p> <p>Conduct workflow and detailed network analysis to identify any pre-existing conditions that may impede ability to successfully install the system</p> <p>Provide written report identifying deficiencies following network analysis</p> <p>Review necessary functional requirements for all interfaces required for the project</p> <p>Assist in identifying deficiencies in Customer network that may impede state link installation and configuration</p>	<p>Customer Responsibilities</p> <p>Allow Spillman Account Trainer to observe operations</p> <p>Make necessary changes to forms and documents</p> <p>Participate in workflow and detailed network analysis with designated I.T. personnel and all other Customer representatives necessary with knowledge of Customers infrastructure, verify/validate any recommendations and make adjustments/upgrades as necessary</p> <p>Submit change request(s) if necessary</p>
<p>Spillman Staff</p> <p>Project Manager</p> <p>Systems Engineer</p> <p>Account Trainer</p>	<p>Customer Staff</p> <p>Project Manager</p> <p>Project Team (as assigned)</p> <p>I.T. Personnel</p> <p>System Administrator</p> <p>End Users (as needed for observation activities)</p>

2. Project Analysis and Planning Meeting

Completion Criteria

This task will be complete after Spillman concludes its observation of communications and records operations, conducts workflow and detailed network analysis and provides written report to Customer.

1

3. Finalize Project Plan

Task Description

During this task, the Spillman and Customer Project Managers, along with Customer personnel who can make resource allocation or scheduling decisions, and review the Project Schedule and make any necessary changes based on known changes in resource availability. The Spillman Project Manager will update the schedule.

The Project Schedule will be updated as necessary over the course of the Project. All changes to the schedule will be mutually agreed upon and, if required, documented via the mutually agreed upon Change Request process. Any schedule changes that occur will be a part of the monthly Project Status Report provided by the Spillman Project Manager.

Spillman will work with Customer to ensure sufficient time has been allocated, based on Spillman's and Customer's resources and time constraints, to successfully complete the tasks assigned within the time allotted in the project schedule.

Deliverables

Final Project Schedule

Prerequisites

Project Analysis & Planning Meeting

Spillman Responsibilities

Lead Customer through a review of the Project Schedule

Update Project Schedule

Customer Responsibilities

Ensure personnel who can make resource allocation and scheduling decisions attend Project Schedule review

Spillman Staff

Project Manager

Training Coordinator

Customer Staff

Project Manager

System Administrator

Department Supervisors (as needed for approving schedule)

Completion Criteria

This task will be complete when the Customer Project Manager approves the final Project Schedule.

2

4. Hold Project Kickoff Meeting

Task Description

Spillman will conduct an on-site project kick-off meeting with the Customer Project Team.

Project Meeting goals are to:

Present Project Management methodology and approach

Review data entry standards and provide an example as a place for Customer to start developing its own set of data entry standards

Review Project Schedule, focusing on training schedule

Verify completeness of information gathered from checklists and questionnaires provided during the Pre-Implementation Meeting

Deliverables

On-site project kick-off meeting
 Project Management Plan (Guide)
 Data Entry Standards

Prerequisites

Pre-Implementation Meeting held
 Project Schedule finalized
 Customer provided information on checklists
 Customer completed questionnaires

Spillman Responsibilities

Conduct Project Kick-off Meeting
 Provide materials related to the Project Kick-off Meeting

Customer Responsibilities

Provide location for Project Kick-off Meeting
 Provide information requested in checklists and completed questionnaires
 Ensure Project Team attends Project Kick-off Meeting
 Develop data entry standards before user training begins

Spillman Staff

Project Manager

Customer Staff

Project Manager
 Project Team

Completion Criteria

This task will be complete after Spillman conducts the Project Kick-off Meeting.

1 **Phase 2 (Execution of Project Plan)**

5. Order Hardware	
<p>Task Description</p> <p>The objective of this task is to order the hardware required for the Spillman system. Spillman will be responsible for procuring all Products listed in Exhibit H, Pricing Summary and Detail. Any products not listed in Exhibit H are the Customer’s responsibility. Equipment will only be ordered at a time mutually agreeable to both parties. The equipment configuration will be reviewed and updated, if appropriate, prior to order placement.</p> <p>Hardware will be shipped to Customer location.</p>	
<p>Deliverables</p> <p>Hardware recommendations</p>	<p>Prerequisites</p> <p>Project Kickoff Meeting</p>
<p>Spillman Responsibilities</p> <p>Verify hardware order</p> <p>Order hardware</p> <p>Provide minimum and recommended hardware requirements for all workstations</p>	<p>Customer Responsibilities</p> <p>Order hardware (if required)</p> <p>Hardware (workstation) upgrades as needed</p>
<p>Spillman Staff</p> <p>Project Manager</p> <p>Installation Manager</p> <p>Systems Engineer</p>	<p>Customer Staff</p> <p>Project Manager</p> <p>IT Personnel (as needed)</p> <p>System Administrator</p>
<p>Completion Criteria</p> <p>This task will be complete upon installation of the equipment.</p>	

2

6. Order Third Party Products	
<p>Task Description</p> <p>Spillman will order third party products listed in Exhibit H. Any Customer required 3rd party products not listed in Exhibit H will be the responsibility of the Customer.</p>	
<p>Deliverables</p> <p>N/A</p>	<p>Prerequisites</p> <p>Project Kickoff Meeting</p>

6. Order Third Party Products	
Spillman Responsibilities Order third party products as specified in Exhibit H.	Customer Responsibilities Order third party products for which Customer is responsible
Spillman Staff Project Manager Systems Engineer	Customer Staff Project Manager System Administrator IT Personnel (as needed)
Completion Criteria This task will be complete when the third party software products have been installed.	

1

7. Develop Data Entry Standards	
Task Description <p>Customer is responsible for developing data entry standards and policies to ensure users enter data correctly and in conformity with quality assurance expectations. At the Kick-off Meeting, Spillman will provide and explain sample data entry standards as a starting point for Customer. Customer will need to revise the sample standards to meet its specific needs. Once it has decided upon standards, Customer will be expected to formalize the policy as standard operating procedure for data entry tasks. Spillman will incorporate the data entry standards into end-user training. As such, Customer will need to complete this task prior to end-user training. Spillman is not responsible for project delays due to Customer not completing this task in a timely manner. Spillman is responsible for ensuring sufficient time has been allocated, based on Customer's resources and time constraints, to successfully complete the tasks assigned within the time allotted in the project schedule.</p>	
Deliverables Sample data entry standards	Prerequisites Project Kick-off Meeting
Spillman Responsibilities Provide sample data entry standards Explain data entry standards	Customer Responsibilities Revise sample standards form to meet Customer needs Create formal policies and standard operating procedures to guide data entry tasks

7. Develop Data Entry Standards	
Spillman Staff Project Manager Account Trainer	Customer Staff Project Manager Project Team
Completion Criteria This task will be complete after Customer develops formal data entry standards that Spillman can incorporate into end-user training.	

1

8. Conduct First Onsite Map Training	
Task Description Customer must prepare its GIS data for the Spillman geofile and then build the Spillman geofile database. Prior to Spillman arriving on-site for this task, Customer will collect current map data for assessment. Spillman will send Customer a document to guide Customer in the collection of this data. At the Customer location, a Spillman GIS Trainer will assess the current map data and provide feedback on ways to improve the quality of the data for use in the Spillman geofile. During this time, the Spillman GIS Trainer will also instruct Customer personnel responsible for building the geofile on how to build and update the maps for use in the Spillman applications. After the training, Customer is responsible for building and maintaining the geofile. Spillman will remotely provide additional assistance as needed.	
Deliverables Map data collection guide GIS Modification Recommendations Three days on-site map training Remote assistance as needed	Prerequisites N/A

8. Conduct First Onsite Map Training	
<p>Spillman Responsibilities</p> <p>Provide map data collection guide</p> <p>Assess current map data</p> <p>Provide feedback on ways to improve quality of map data</p> <p>Provide map build training</p> <p>Provide remote assistance during Customer map build activities</p>	<p>Customer Responsibilities</p> <p>Collect current available map data</p> <p>Attend map training</p> <p>Build and maintain geofile per Spillman specifications</p>
<p>Spillman Staff</p> <p>Trainer (GIS)</p>	<p>Customer Staff</p> <p>System Administrator</p> <p>GIS Department</p>
<p>Completion Criteria</p> <p>This task will be complete after Spillman concludes the first on-site map build training.</p>	

1

9. Install and Configure Hardware and Operating System	
<p>Task Description</p> <p>After the Customer receives the server hardware, Spillman System Engineers will install the server at Customer site, and install and configure the operating system. The System Engineers will also help the Customer configure the GIS server to accommodate ESRI Network Analyst, which is necessary if the Customer wants routing and closest unit dispatching capabilities.</p>	
<p>Deliverables</p> <p>Servers installed and configured</p>	<p>Prerequisites</p> <p>Hardware ordered and delivered</p>
<p>Spillman Responsibilities</p> <p>Install application servers and operating system at Customer site</p> <ul style="list-style-type: none"> • Stratus Server • InSight Server • Hiplink Server • ArcGIS Server 	<p>Customer Responsibilities</p> <p>Assist with installation of application servers</p> <p>Configure network</p> <p>Assist with establishing connectivity to Spillman headquarters</p> <p>Customer Dispatch Computer setup</p>

9. Install and Configure Hardware and Operating System

<p>Configure database storage space allocation</p> <p>Guide Customer through network configuration</p> <p>Conduct initial tests of the equipment and correct any problems or deficiencies</p> <p>Establish connectivity to Spillman headquarters</p> <p>Dispatch Computers</p> <ul style="list-style-type: none"> • Install base computer with OS <p>Install only Spillman Applications</p> <p>Handheld Hardware</p> <ul style="list-style-type: none"> • Install base computer with OS <p>Install only Spillman Applications</p>	<ul style="list-style-type: none"> • Configure Computer(s) on Customer network • Install all other software applications required by Customer • Configure CAD station(s) with all other Customer Dispatch related interfaces <p>Customer will install the ESRI software on the ArcGIS server as per ESRI requirements</p> <p>Install other Customer 3rd party products.</p> <p>Customer Handheld setup</p> <ul style="list-style-type: none"> • Install at Customer
<p>Spillman Staff</p> <p>Project Manager</p> <p>Systems Engineer</p>	<p>Customer Staff</p> <p>System Administrator</p> <p>IT Personnel</p>
<p>Completion Criteria</p> <p>This task will be complete when Spillman has installed and configured the application server and operating system, conducted initial tests of the equipment, corrected any problems or deficiencies and has established connectivity to Spillman headquarters.</p>	

1

10. Install Core Spillman Application

Task Description

After installing the servers and configuring the operating system and database storage, Spillman System Engineers will install the core Spillman Application and the Spillman side of interfaces. The System Engineers will configure the database environments and create the initial administrative user accounts.

Spillman will provide the mobile and Spillman client applications and install them on client machine at Customer location.

10. Install Core Spillman Application	
<p>Deliverables</p> <p>Installation of Spillman applications as specified in Exhibit H, Pricing Summary and Detail</p> <p>Initiate installation of Spillman components of external interfaces</p> <p>Installation of mobile client application</p>	<p>Prerequisites</p> <p>Hardware installed</p>
<p>Spillman Responsibilities</p> <p>Install core Spillman applications</p> <p>Configure databases (live, training)</p> <p>Create administrative user accounts</p> <p>Create training user accounts</p> <p>Initiate installation of external interfaces</p> <p>Install Spillman client application on PCs</p> <p>Install mobile client application on mobile computers</p>	<p>Customer Responsibilities</p> <p>Coordinate access to PCs and Laptops for client installation.</p>
<p>Spillman Staff</p> <p>Systems Engineer</p>	<p>Customer Staff</p> <p>IT Personnel</p> <p>System Administrator</p>
<p>Completion Criteria</p> <p>This task will be complete when Spillman has installed the core Spillman applications, created the training user accounts and administrative accounts, initiated the installation of external interfaces and performed the necessary tests required for successful end user training and go live.</p>	

1

11. Configure External Interfaces (see Exhibit B, Technical Interfaces Descriptions)
<p>Task Description</p> <p>Spillman will install and test external interfaces and custom reports as outlined in Exhibit B, Interface Descriptions. The development of interfaces and reports will include developing, testing, and successfully demonstrating (as described in Exhibit E, Acceptance Test Plan) the</p>

11. Configure External Interfaces (see Exhibit B, Technical Interfaces Descriptions)

completion of all included interfaces and software modifications as agreed to in Exhibit H, Pricing Summary and Detail.

Deliverables

Installation, configuration and testing of interfaces listed in Exhibit B

Prerequisites

Spillman application installation

Spillman Responsibilities

- External Interfaces
 - Serve as prime contractor to develop interfaces
 - Test and successfully demonstrate completion
 - Update interface and system documentation as necessary

- External Interfaces
 - Participate in testing external interfaces
 - Facilitate communication as needed with 3rd party vendors
 - Ensure connectivity is in place between the server and external databases for applicable interfaces

Spillman Staff

- Project Manager
- Systems Engineer
- Development (Programmers)

Customer Staff

- IT Personnel
- System Administrator
- Third Party Vendor Representatives

Completion Criteria

This task will be complete when Spillman and Customer have tested the external interfaces and custom reports included in Exhibit H, Pricing Summary and Detail and mutually agree that they are installed and working correctly according to Exhibit B, Interfaces Descriptions or that a mutually agreeable timeline and plan for finalizing interface or custom report needs is determined.

12. Conduct Project Team Training

Task Description

Spillman will conduct a training course specifically for the Customer Project Team.

Project Team Training is designed to be a guide that will cover necessary and important setup items that will need to be completed before constructing and using the live database. This course is designed to give the Customer's Project Team an overview of the Spillman modules purchased. Covering system's security and setup facilitating as a guide to help you prepare for Live Database Construction. All of the modules covered in the Project Team Training will have their own courses for End User Training that will discuss each module in greater detail throughout the training.

Deliverables

Project Team Training
Acceptance Document

Spillman Responsibilities

Project team training (system overview)
Demonstrate Spillman application

Prerequisites

Spillman application installation

Customer Responsibilities

Provide appropriately equipped location for training
Ensure appropriate personnel attend Project Team training per the Training Plan

Spillman Staff

Project Manger
Trainer

Customer Staff

Project Manager
Project Team
Managers of Departments over specific modules being taught (decision makers).

Completion Criteria

This task will be complete when Spillman has completed Project Team Training.

1

13. Conduct System Administration Training

Task Description

Spillman will conduct System Administration Training courses as listed in Exhibit D, Training Plan:

13. Conduct System Administration Training

The objectives of these courses are to teach the students how to administer Spillman with a Windows Server O.S., and explain the relationship between the Windows Operating System and the Spillman application. The System Administration course is designed to give the Customer's Spillman Application Administrators the necessary knowledge to maintain users, groups, passwords and configuration of the Spillman system. During this Training (with the assistance of the Trainer) the Customer will begin the process of setup and maintenance of the Spillman database. This course will cover Spillman application fundamentals that will allow the Customer to better understand the software to complete the necessary tasks for project implementation. This course will point out features that will allow the Customer to better utilize the software's functionality with the different options available and to understand the integration and flow of the data.

During this training, Spillman will work with the Customer to review and finalize the data entry standards. Following the training, Customer will be responsible for formalizing policies regarding the data entry standards. This task must be complete before user training begins.

Spillman Responsibilities	Customer Staff
System Administration training	Project Manager (as needed) Project Team System Administrator I.T. Personnel Managers of Departments (as needed for code tables decisions).

Completion Criteria

This task will be complete when Spillman has provided the System Administration training per the Training Plan.

1

14. Conduct Follow-up OnSite Map Trainings

Task Description

Spillman GIS Trainers will provide two additional on-site training sessions to review the geofile map build and direct the necessary GIS modifications. The trainers will identify areas where the maps could be improved and assist the Customer with any issues or problems it is experiencing. At the end of the last training session, if the map is ready, the GIS Trainers will assist Customer in loading the map into the Spillman application.

14. Conduct Follow-up OnSite Map Trainings

<p>Deliverables</p> <p>Two On-Site Map Trainings</p>	<p>Prerequisites</p> <p>Spillman application installation</p> <p>System Administration training</p> <p>Significant progress on Customer map build</p>
<p>Spillman Responsibilities</p> <p>Provide on-site map build assistance to customer</p> <p>Assist with final map load</p>	<p>Customer Responsibilities</p> <p>Assist with final map load</p>
<p>Spillman Staff</p> <p>Trainer (GIS)</p>	<p>Customer Staff</p> <p>GIS Department</p> <p>System Administrator</p>
<p>Completion Criteria</p> <p>This task will be complete when the final map build has been loaded and demonstrated to the City that the System and its components work correctly with the map installed.</p>	

1

15. Conduct Functional Testing

Task Description

At the Customer location, Spillman and Customer will conduct tests on each installed sub-system and, when applicable, for the system as a whole. Sub-system functional testing shall be conducted for a reasonable amount of time to ensure proper function and will not exceed 30 days. Spillman will provide Customer with its standard functional acceptance tests for each Spillman application module. Should it desire to do so, Customer can develop mutually agreeable additional tests and scenarios.

With assistance from Spillman, Customer will conduct Functional Tests following the installation and setup of each subsystem to verify that the commands work as intended within functional acceptance tests and any mutually developed test scenarios, and that each subsystem, as well as all interfaces, function according to the Acceptance Testing Documents.

In the process of testing the requirements, Customer will also test specific commands to determine whether the command executes the intended function in the manner expected, the command generates the appropriate acknowledgement message, information transfers correctly, and the commands generate the appropriate error messages when input incorrectly.

15. Conduct Functional Testing

During Functional Testing, Spillman and the Customer will track whether requirements pass or fail a test, classifying requirements that fail a test as a "Failure." If a reproducible Defect is identified, it will be documented and Spillman will initiate work to resolve the Defect as required by this exhibit. Once a correction is put in place, Spillman and the Customer will conduct additional testing of that requirement to verify that it passes the test.

Performance and Reliability Testing will be conducted during the Preliminary Acceptance Test Periods as described in Exhibit E, Acceptance Test Plan.

<p>Deliverables</p> <p>Spillman standard functional tests</p>	<p>Prerequisites</p> <p>Spillman application installation System Administration training</p>
<p>Spillman Responsibilities</p> <p>Provide standard functional tests</p> <p>Work with Customer to review and agree upon additional tests and scenarios</p> <p>Conduct functional testing with Customer, tracking results</p> <p>Correct any Failures</p>	<p>Customer Responsibilities</p> <p>Review standard Spillman functional tests</p> <p>Create additional tests and scenarios, if desired (additional tests will require Spillman approval).</p> <p>Conduct functional testing with Spillman, tracking results</p> <p>Re-test any corrections made by Spillman</p>
<p>Spillman Staff</p> <p>Project Manger</p> <p>Trainer</p>	<p>Customer Staff</p> <p>Project Manager</p> <p>Project Team</p> <p>End Users (as needed)</p>
<p>Completion Criteria</p> <p>This task will be complete when the items that failed during the functional test have been remedied or resolved in accordance with the requirements of the Agreement and this exhibit</p>	

16. Conduct End-User Training

Task Description

Spillman will conduct end-user training during each phase of subsystem implementation per the mutually agreed upon Training Plan.

Deliverables

End-user training

Deliverables

End-user training

Spillman Responsibilities

Provide end-user training per the Training Plan

Spillman Responsibilities

Provide end-user training per the Training Plan

Spillman Staff

Trainers

Spillman Staff

Trainers

Completion Criteria

This task will be complete when Spillman has completed all end-user training per the Training Plan.

1

17. Cut over to Live Operations

Task Description

Cut over to live operations will take place with each subsystem once the subsystem has completed Functional Testing as described in Exhibit E, Acceptance Test Plan. Spillman Trainer(s) will be on-site to assist Customer with cutover to live operations for each subsystem.

On the day of cutover to live operations, Spillman will facilitate a Go-Live Kick-off Meeting to ensure that all tasks are completed and involved Customer personnel are prepared for their roles during and post-cutover.

After cutover, the Spillman trainers will assist Customer personnel with the initial live database entry, providing guidance and training as needed. The Trainers will troubleshoot live database problems that may occur and make minor configuration modifications as Customer makes initial database entries and enacts entire work processes in the live environment.

Daily, trainers will hold meetings at the beginning and end of the workday to discuss concerns and issues that arise.

Customer System Administrators, the Project Team and other "supervisory users" should also be present to provide guidance to Customer personnel who need additional assistance.

17. Cut over to Live Operations

Customer personnel should know that they are free to ask questions. The System Administrators, Project Team and other supervisory users should report issues and concerns they encounter to the Spillman Trainers and Spillman Project Manager, who will incorporate the issues and concerns into daily meetings and one-on-one training.

Deliverables Trainers on site for Go-Live	Prerequisites Completion of all previous tasks
Spillman Responsibilities Facilitate Go-Live Kick-off meeting (first day go live) Assist with initial live database entry Observe operations and troubleshoot live database problems Make minor modifications as needed Work one-on-one with individuals needing extra assistance	Customer Responsibilities Ensure appropriate personnel attend Go-Live Kick-off meeting Provide guidance to individuals needing extra assistance Relay issues and concerns to Spillman personnel
Spillman Staff Project Manager Systems Engineer Trainers	Customer Staff Project Manager All Employees (end users)
Completion Criteria This task will be completed once each subsystem has been cut over to live operations.	

1

18. Final System Acceptance

Task Description

The Customer will sign off on Final System Acceptance.

Deliverables Completion of all obligations as defined by the Agreement.	Prerequisites: Cutover to live operations Preliminary Acceptance Test Period
---	---

18. Final System Acceptance

	Final System Acceptance Test Period
Spillman Responsibilities Resolve performance and reliability issues per the Acceptance Test Plan	Customer Responsibilities Monitor Spillman System Log errors with appropriate detail
Spillman Staff Project Manger	Customer Staff Project Manager Project Team
Completion Criteria This task will be complete once the System meets the requirements of Exhibit E, Acceptance Test Plan and Spillman has completed all obligations as defined by the Agreement. Acceptance and payment shall not be unreasonably withheld.	

Signatures

1

2 Authorized signatures below indicate acceptance by Spillman and the Customer of this
3 Statement of Work.

For Spillman:

For the Customer:



Signature

Signature

Joe Lunt

Printed Name

Printed Name

VP Sales & Marketing

Title

Title

Spillman Technologies, Inc.

Company

Agency

02-22-12

Date

Date

4

Exhibit B: Interface Descriptions

This Exhibit contains a list of interfaces to be provided by Spillman, including descriptions and deliverables. Attachment 1 is the list and related detail regarding development of items that are options as listed in Exhibit H, Pricing Summary and Detail that may be added to the project via a Change Order prior to the completion of Phase 1 as described in Exhibit A, Statement of Work.

Each Interface description includes the agency's current functionality requirements for connecting the new System to external sources. These "interfaces" may be transactional (real time) or batch, one-way or two-way, direct, hard-coded interfaces, facilitated with web-based tools available from Spillman (or outside 3rd party vendors) or simple ODBC import/export routines (automatic or by manual intervention) depending on actual requirements as specified in this exhibit.

Spillman must develop, install, configure, test, document and debug all interfaces identified in this Exhibit B to facilitate the functional requirements as stated herein.

As each interface is developed, installed, tested, debugged and demonstrated, the Customer and Spillman will review the functionality and operational characteristics thereof.

Once the system goes live, the Customer and Spillman will review the functional, performance and reliability of each Interface and will mutually determine if that Interface works correctly and properly as a System component. In the event changes to the Interface are necessary to meet these requirements, Spillman will make the changes deemed reasonable and necessary, at no additional cost.

Table of Contents

State Link (CA Direct Connect)	4
E911 Interface	7
HipLink Paging Interface	11
LiveScan Interface	15
Mobile AVL and Mapping	30
Pictometry Interface	35
Higher Ground Interface (Fisher)	37
Chameleon Interface (Fisher)	38
SWITRS	39
LAWS InSight Interface (Fisher)	41
E-Citations Submission to Courts	45
Evidence Reports	46
San Joaquin County Booking/Arrest Report I	49
Tracy Police Department Inmate Screening Report	52
ARIES	53
Attachment 1 (Optional Interfaces)	55
DataWorks Interface	56
San Joaquin County Booking/Arrest Report II	58
Tracy Police Department Inmate Screening Report	61
INSIGHT JXML QUERY SDK	62

State Link (CA Direct Connect)

Description

Spillman will provide a query-only interface between the CAD/Mobile application and CLETS. CLETS, managed by the California Department of Justice, which offers law enforcement and criminal justice agencies within the state secure 24x7 access to state and interstate criminal history record information, missing and wanted person files, drivers' license and motor vehicle information and other critical criminal justice information via the National Crime Information Center (NCIC) and the National Law Enforcement Telecommunications System (NLETS). Users will be able to conduct CLETS queries from within the CAD system (e.g. without exiting the application to run queries) and attach appropriate query returns to CAD calls for service records. Queries will run automatically upon execution of selected commands (e.g. run plates upon entering a traffic stop).

Spillman will install the State Link and Mobile State Link CLETS/NCIC interface. The Customer, however, is responsible for obtaining and configuring in compliance with Customer's States specifications a state connection and obtaining all state user and terminal ORIs. Should Customer require assistance, Spillman can help with the process. Once the Customer has successfully installed and configured the State connection with connectivity between the Spillman server and the State; together, Spillman and Customer will enter the ORI and terminal information and test the connection.

In addition to the 56 standard CLETS Masks Spillman provides California agencies, Spillman also agrees to build up to 10 additional masks, if deemed necessary and required by Customer and included as a component of the System to be installed.

Spillman will also provide a bi-directional interface between CLETS/NCIC and its RMS/Mobile/AFR applications. In addition to conducting queries from within the RMS/Mobile/AFR applications, users will be able to:

- With the exception of Mobile/AFR, upload, update, edit and remove required CLETS data including, but not limited to: warrant; restraining order; order of protection; sex offender; property; vehicle; person of caution; gun; and missing persons (adult and juvenile) information.

- Update its local RMS with information returned from a CLETS inquiry on the previous list of information

- Populate appropriate fields in the field reporting application with CLETS query returns

Requirements

- Protocol: TCP/IP

- Operating System: DEC

- Interface Standard: Statelink 1.0

- Delivery Package: No delivery package available at this time

1 **Customer Responsibilities**

- 2• Obtain state connection
- 3• Obtain state user and terminal ORIs
- 4• Work with Spillman to enter ORI and terminal information
- 5• Test State Link and Mobile State Link CCIS/NCIC interface

6 **California Direct Connect transactions available from the Spillman software**

Transaction type	Screen command line access	Screen name	Message key(s) sent
Boat	BQ	Query Boat Registration	
	CB	Boat Clear	
	EB	Boat Entry	
	LB	Boat Locate	
	MB	Boat Modify	
	QB	Query Boat	
	XB	Boat Cancel	
Criminal History	QH	Query Criminal History	
Driver Query	DQ	Driver License Query	
	KQ	Driver History Query	
Firearms	EG	Enter Gun	
	LG	Locate Gun	
	MG	Modify Gun	
	QG	Gun Query	
	XG	Cancel Gun	
Miscellaneous	AM	Administrative Message	AM
	FREE	Query Pass Through	FREE
	YQ	Hit Confirmation Request	YQ
	YR	Hit Confirmation Response	YR
Missing Persons	CM	Clear Missing Person	CM
	EM	Enter Missing Person	EM
	EMI	Enter Missing Person Identifiers	EMI
	LM	Locate Missing Person	LM
	MM	Modify Missing Person	MM
	QM	Missing Person Query	QM
	XM	Cancel Missing Person	XM

Transaction type	Screen command line access	Screen name	Message key(s) sent
Property	EA	Enter Article	EA
	LA	Locate Article	LA
	MA	Modify Article	MA
	QA	Query Article	QA
	XA	Cancel Article	XA
Restraining Order	ERO	Restraining Order Entry	ERO
	MRO	Restraining Order Modify	MRO
	QRP	Restraining Order Query	QRP
	SRO	Restraining Order Service Entry	SRO
	XRO	Restraining Order Cancel	XRO
	CRO	Restraining Order Clear	CRO
Sex Registration	ESA	VCIN Entry	ESA
	MSA	VCIN Modify	MSA
	QSA	VCIN Query	QSA
Supervised Release	QVC	Supervised Release Query	QVC
Vehicles	CV	Clear Vehicle	CV
	EL	Enter Vehicle License Plate	EL
	EV	Enter Vehicle	EV
	LV	Locate Vehicle	LV
	MV	Modify Vehicle	MV
	QV	Vehicle Check Query	QV
	RQ	Query Vehicle Registration	RQ
	XV	Cancel Vehicle	XV
Wanted Person	CW	Clear Wanted Person	CW
	EW	Enter Wanted Person	EW
	LW	Locate Wanted Person	LW
	MW	Modify Wanted Person	MW
	MW2	Supplemental Wanted Modify	MW2
	QW	Wanted Person Query	QW
	XW	Cancel Wanted Person	XW
	WA	Warrant Abstract	WA

E911 Interface

1

2 **Description**

3 The Spillman E911 Interface receives both Automatic Name Identification/Automatic Location
4 Identification (ANI/ALI) and Phase II latitude and longitude coordinate information from a
5 Spillman approved E911 system, and incorporates that information into a new active call record
6 in the Spillman CAD module. Additionally, text from TTY conversations will be transferred
7 and appended to call comments.

8 Spillman will install the 911 interface. To configure the 911 interface, Spillman will require a
9 sample ANI/ALI data stream from Customer, dispatch terminal IP addresses and a port for
10 connectivity to the ANI/ALI box. After receiving this information and the required
11 connectivity, Spillman will configure the 911 interface and, together with the Customer, test the
12 connection to verify the correct data stream and format transfers to the CAD screens.

13 **Requirements**

14• **General**

15• The Spillman software must be loaded on a Spillman-approved hardware platform as outlined
16 in current Spillman policies. Spillman will complete this task during installation.

17• Spillman technicians must have direct access to the server where the Spillman software is
18 loaded.

19• Installation will be completed both onsite and remotely.

20• **Hardware**

21• Approved ANI/ALI equipment, installed and functional.

22• ANI/ALI equipment with a serial CAD port.

23• TCP/IP network connection to the server.

24• 10/100 baseT auto-detecting Ethernet hub.

25• Etherlite serial port server (Spillman Technologies will purchase the initial Etherlite only).

26• Serial cable connection the ANI/ALI serial CAD port to the Etherlite serial port server.

27• Static IP address for the Etherlite serial port server.

28• Static IP address and computer name for each Spillman 911 dispatch station.

29• ANI/ALI station number for each Spillman 911 dispatch station.

30• Power source for the Etherlite serial port server (within 15 feet of ANI/ALI CAD port).

31• **Software**

32• Spillman CAD module.

33• Device drivers for the Etherlite serial port server.

1• **Documentation**

- 2• User documentation is found in the CAD User's Guide.
- 3• SAA Documentation is found in the Application Setup and Maintenance Manual.

4• **Training**

- 5• SAA Training is included in the standard SAA training.
- 6• User Training is included with CAD user training.

7 **User Information**

- 8 User information on how to use the E911 Interface can be found in the CAD User's Guide under
- 9 Adding a New Call.

10 **SAA Information**

- 11 SAA information on how to setup E911 can be found in the Application Setup and Maintenance
- 12 Manual under Setting Up CAD-related Modules.

13 **Implementation Task List**

- 14 This section contains a task checklist where the date is recorded as each task is performed.
- 15 Installation staff from Spillman is responsible for the task lists.

16 **Pre-Installation**

Date	Responsible Party	Description
	Agency	Confirm that approved ANI/ALI equipment and serial CAD port are installed and functional.
	Agency	Provide serial CAD port pin-out specifications.
	Agency	Provide E911 protocol document and ALI text format information.
	Agency	Provide a TCP/IP network connection to the server, connected to a 10/100 baseT auto-detecting Ethernet hub.
	Agency	Provide a static IP address for the Etherlite serial port server.
	Agency	Provide a power source available for Etherlite serial port server.
	Agency	Help Spillman coordinate on-site visits with following attendees: agency SAA, 911 provider, Spillman Installation technician.

1 Initial Installation

Date	Responsible Party	Description
	Agency	Work with the Spillman Installation technician to resolve any hardware/network or software issues.
	Spillman	Install and configure Etherlite serial port server.
	Spillman	Create a cable between the E911 equipment and the serial port (Etherlite port server).
	Agency	Re-boot server if needed.
	Agency	Work with Spillman Installation technician and dispatch to send test calls.

2 Pre-Live

Date	Responsible Party	Description
	Spillman	Configure data from E911 call dump from the ANI/ALI so that it is mapped correctly into Spillman CAD.
	Agency	Provide a static IP address, computer name, and ANI/ALI station number for each Spillman 911 dispatch station.
	Agency	Provide a floor plan of the dispatch areas and CAD stations.
	Spillman	Configure the Terminal Mapping table (cdtty) in Spillman CAD.

3 Live

Date	Responsible Party	Description
	Agency	Work with a Spillman Installation technician to verify that 911 data is populating the CAD screen on each dispatch station.
	Agency	Make sure the hardware and network remain functional.
	Agency	Work with the E911 provider and Spillman technicians to resolve any software issues.
	Agency	Notify Spillman Customer Support if the E911 data stream changes. If the original E911 interface must be modified to accommodate the data stream changes, fees might apply.

Date	Responsible Party	Description
	Agency	Maintain hardware and software not provided by Spillman.
	Agency	Upgrades to the Software must be performed by an authorized Spillman technician.
	Agency	Spillman Technologies is <i>not</i> responsible for hardware support of items not included in Exhibit H.
	Spillman	Installation complete.

HipLink Paging Interface

Description

The Spillman Paging Interface allows an agency to send both automatic and manual page messages from Spillman's Computer-Aided Dispatch (CAD) program to a third party paging program. The Interface sends commands to page specific units or users. The third party paging program, using a variety of different communication protocols, then communicates those pages to the carriers (for example, AT&T) to which the pages then get sent to the individual devices being used by the units and users. If associated with a CAD incident, transmission of messages is documented in the related CAD incident.

Automatic messages are those generated by certain dispatch activities. Automatic messages contain information from specific fields in CAD. The agency's Spillman Applications Administrator (SAA) can set the interface to send pages to individual units and users, or to groups of units and users. The SAA at the agency can also set up groups of users to receive automatic pages for specific types of calls or situations.

Manual messages are free-text messages that dispatchers can send to individual units or users or to a group of users/units/groups by entering a CAD command.

Spillman utilizes HipLink's Command Line Interface (CLI) to communicate between the Spillman and HipLink applications, which will be running on two different servers. The CLI is TCP/IP based; therefore, no serial connection is required for the HipLink Integration.

HipLink can communicate with virtually any device that can receive a text message. The most common devices that are supported through this integration are: cell phone's/smart phones, pagers, email, printers, and fax machines.

HipLink communicates with the wireless providers using many different protocols. Some of the more common methods are WCTP, SNPP, SMTP, and they can use the older TAP protocol, which is still widely used in remote and/or mountain areas that use RF.

HipLink can be used for a variety of other communication purposes beyond the Spillman Integration. The extent of the integration purposes of the Spillman HipLink Integration Solution is confined to sending automatic pages based on user-defined variables from Spillman CAD. No other purposes are intended with this integration. Therefore, the setup is mostly on the Spillman side, defining paging groups, plans, and devices.

User Information

Automatic paging

Spillman can set the interface to send an automatic page when a dispatcher assigns units to a call and when a unit reaches a status defined in the pgcmplt application parameter. This can also be set up to automatically page specific groups of users/units/groups for certain types of calls or situations. Automatic paging works as follows:

- 1 • When a dispatcher assigns one or more units to a CAD call, the interface sends a
2 message to the paging software. The program forwards this message to the following
3 recipients:
 - 4 – Each unit dispatched to the call.
 - 5 – Officers assigned to any unit that is dispatched to the call. Officers are paged
6 only if the Page Officers field in the Pager Table is set to Yes.
 - 7 – Each group that matches specific criteria and that is specified in a Paging Plan
8 record.
- 9 • After it sends the “dispatched call” page, the Interface makes an entry in the Paging Log.
10 (See the “Logging of pager messages” section of this document for the format of the log.)
- 11 • When the responsible unit for a CAD call reaches a new status, the interface sends a
12 status page to the members of any group associated with a Paging Plan record for the
13 new status. The status page follows the same format as the dispatched call page, and the
14 Interface makes another entry in the Paging Log.
- 15 • When a unit reaches a status defined in the pgcmplt application parameter the interface
16 sends that unit a “completed call” page. This page contains the incident number for the
17 call and the response times for the unit. (See the “Application Parameters” section of this
18 document for more information on the pgcmplt application parameter.)
- 19 • Spillman can also set up the interface to page specific groups of persons when a
20 dispatcher dispatches calls of a certain nature or makes a certain status change to a call.
21 For example, if sets up includes a paging group for structure fire calls, the Interface will
22 send everyone in that group a page whenever a Structure Fire call is dispatched. Rules
23 for paging groups can be defined. These rules include:
 - 24 – **Paging by nature**— If a group is associated with a By Nature rule, the group
25 members receive a page if the nature of the dispatched call matches the nature
26 set up in the rule *and* the location of the call is inside the boundaries of the
27 agency that is defined in the rule.
 - 28 – **Paging by status**— If a group is associated with a By Status rule, the group
29 members receive a page when a dispatched unit achieves the specified status *and*
30 any unit dispatched to that unit’s call is a member of the agency defined in the
31 rule.

32 **Note:** The interface does not send group pages (pages designated by a rule associated with groups) to off-
33 duty units.

34 The interface pages a unit or an officer only once per type of page per call. For example, when a
35 dispatcher assigns a unit to a call, the Interface sends that unit and each of its assigned officer(s)
36 one page for the call. The responsible unit and the responsible officer(s) might receive pages
37 when the call’s status changes and when the call reaches a completed status (as defined in the
38 pgcmplt application parameter). The Interface sends only one page to each recipient for each

1 change. However, if the nature of the call changes, the Interface pages any groups that are set
2 up to receive pages for calls of the new nature, regardless of whether some group members
3 might have already received a page for that call.

4• **Manual paging**

5 Using the **page** command from the CAD command line, a dispatcher can send a manual page
6 containing a free-text message to any unit or user whose pager number is defined in a Pager
7 Table record (pager). The free-text message can also be sent to groups of units and users. For
8 more information on using the **page** command from CAD, refer to the *Spillman Paging Interface*
9 *User's Guide*.

10 **Note:** Units receive manual pages regardless of their status (on or off duty).

11• **Logging of pager messages**

12 Each time that the Interface sends a pager message, it generates a new record in the Page Log
13 table. The record contains the following information:

- 14 • Sender of the page.
- 15 • Recipient of the page.
- 16 • Call ID (the incident number for the CAD call, if the incident number is available at the
17 time that the software sends the page).
- 18 • Time and date of the page.
- 19 • Content of the message, whether a free-text (manual) message or a set (automatic)
20 message.

21 **SAA Information**

- 22 • N/A

23 **Requirements**

24• **General**

- 25 • HipLink must be purchased through a Spillman Sales Representative or directly through
26 Semotus Solutions. The integration requires a minimum of 3 protocols, 1 user license
27 and as many device licenses as needed for the agency.

28• **Software**

- 29 • Spillman Paging Interface.
- 30 • Summit Version 4.6 or greater.
- 31 • Semotus Solutions HipLink.
- 32 • Any software that is required to make connection to the carriers.

33• **Hardware**

- 34 • Devices to receive text messages, i.e. pager, cell/smart phone, etc.

- 1 • If TAP is used a dial-up modem is usually required to communicate via phone lines.
- 2 • Appropriate hardware to make connection to the carriers (e.g., AT&T, Verizon, etc.).
- 3• **Documentation**
- 4 • The Spillman Paging Interface User's Guide is available for user documentation.

LiveScan Interface

1

2 **Description**

3 The LiveScan Fingerprint Interface allows an agency to transfer biographical and arrest
4 information from the Spillman software to any combination of selected live-scan fingerprint
5 machines, typically for use with fingerprint cards.

6 **Requirements**

7• **General**

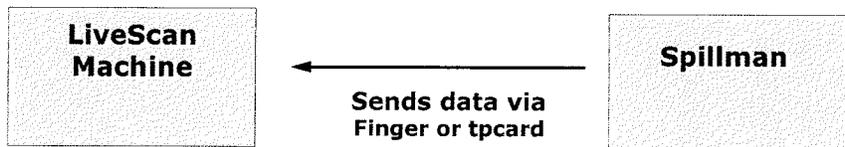
- 8 • Spillman technicians must have access to the server where the Spillman software is to be
9 installed.
- 10 • Installation will be done remotely.
- 11 • Since Tracy PD purchased installation services to set up Two live-scan machines, each
12 task listed in this document must be completed for each machine.
- 13 • The Spillman Application Administrator (SAA) or designated assistant must be
14 available to test the interface functionality and check the content of the data file.
- 15 • The agency is responsible for all network connectivity issues that fall outside the
16 responsibility of Spillman under the Professional Services and Software License
17 Agreement (the "Agreement").
- 18 • If the live-scan vendor modifies any functionality or method of operation of their
19 product and if these modifications require Spillman Technologies to recode any portion
20 of the interface, additional fees for programming will apply.
- 21 • Once the live-scan interface has been installed and is operational, the agency is
22 responsible for payment of any additional expenses that may be required by the live-
23 scan vendor.

24• **Hardware**

- 25 • The live-scan machine must be operational and compatible with Spillman specifications.
- 26 • The live-scan machine must have a TCP/IP connection to the server where the Spillman
27 software is loaded.
- 28 • If the live-scan machine is connected to a local network only, a local static IP address is
29 needed for the live-scan server's network card.
- 30 • If the live-scan machine is connected to the state, a second network card or routers to the
31 state machine and the Spillman server are required.

1• **Software**

- 2 • If NFS Mounting is being used for the communication protocol, NFS server software is
- 3 required on the server and NFS client software is required on the live-scan server.
- 4 • The Spillman Law Records Management module or the Jail Management module is
- 5 required.



6 **SAA Information**

7• **DBI Interface**

8• **Cogent interface**

9 To send data from Spillman to the live-scan machine, the user must either select the Finger

10 option on the Spillman Jail Arrest screen (jlarrest) or enter a tpcard command from Spillman.

11 **Implementation Task List**

12• **Pre-Installation**

Date	Responsible Party	Description
	Agency	Provide Spillman with the name and phone number of the representative for the live-scan hardware vendor.
	Agency	Provide a TCP/IP connection to the server that can utilize NFS between the live-scan machine and the Spillman server
	Agency	Obtain the following information from the live-scan provider and provide this to the Spillman Installation technician: live-scan tag names and their associated Spillman fields, data format, field lengths, the live-scan machine name, and the live-scan input form name. See Detail #1
	Agency	If your agency is submitting fingerprint data to another agency such as the state, you must establish communication between the live-scan machine and the state <i>and</i> the live-scan machine and your Spillman server. See Detail #2

Date	Responsible Party	Description
	Agency	Schedule the installation of the Live-Scan Fingerprint Interface with the Spillman Installation technician.

1• Initial Installation

Date	Responsible Party	Description
	Spillman	Load the Spillman Live-Scan Interface software on the server.
	Spillman	Perform initial configuration on the data fields.
	Spillman	Export the NFS directory that the live-scan machine will mount. See Detail #5
	Spillman	Schedule with the live-scan hardware vendor to be available for configuration and testing.
	Spillman	Initial Installation Complete. Schedule remaining configuration and testing with agency.

2• Configuration

Date	Responsible Party	Description
	Spillman	Work with the live-scan vendor to mount the NFS output directory exported from the Spillman server.
	Spillman	Adjust menu configurations and formats.
	Spillman	Work with the live-scan vendor and the agency's SAA to test the interface connectivity and sample file transfers.

3• Live

Date	Responsible Party	Description
	Spillman	Demonstrate to the SAA how to access the live-scan transfer menus and explain the basic functionality of the interface.
	Agency	Test the interface with the Spillman Installation technician and live-scan vendor. Evaluate the output and inform the Spillman Installation technician if changes are needed.
	Spillman	Make any needed changes or corrections and re-test as needed.
	Spillman	Interface configuration completed.

1 **Maintenance Information**

2 Upgrades to the software must be performed by an authorized Spillman technician.

3 The agency is responsible for recognizing and resolving system errors, as far as is possible,
4 before calling Spillman Customer Support. Notify Spillman Customer Support if the
5 configuration files need to be modified. Do not modify the configuration files yourself. Also
6 notify Spillman Customer Support when you purchase a new fingerprint machine or update
7 existing data formats or menus. Keep backups of your configuration files. Spillman
8 Technologies does not keep copies of these files.

9 Spillman Customer Support technicians can change the format of specific fields as needed to
10 match other fingerprint card formats or meet changing federal and state requirements. For
11 example, the support technician can change the format of a date field from MM/DD/YYYY to
12 MM/DD/YY, MMDDYY, MMDDYYYY, or YYYYMMDD. The technician can also redefine the
13 fields to be transferred, adding or removing fields as needed (fees may apply depending on
14 changes made).

15 **Task Details**

16• **Approved Live-Scan Hardware**

Vendor	Model	Format	Protocol
Cogent	LS500	*NIST	NFS Mount, ftp

17 *There are two standard NIST formats, .xml and .eft. Spillman supports .eft

18

1 **Data Exchange**

2 The Spillman Live-Scan Interface can retrieve data from the following tables:

3

Table name	Table type
apagency	Master
jarrest	Detail
Jinmate	Master
jloffens	Detail
Jlofncic	Code
Nmalert	Detail
Nmextra	Detail
Nmlocal	Detail
Nmmain	Master
Nmsmt	Detail
nmtbalrt	Code
Jlofdisp	Code
Tbagadd	Detail
Tblaw	Code
Tbrelat	Code
Jloflcdt	Detail

4 Example Tag Name Information to Be Provided to Spillman For Live-Scan Interface Installation

SDS FIELD NAME	SDS FIELD SIZE	TAG NAME	TAG SIZE	DESCRIPTION	SPECIAL FORMATS	NOTES
nmmain.last	30	LNAME	15	Last Name		
nmmain.first	15	FNAME	11	First Name		
nmmain.middle	15	MNAME	8	Middle Name		
nmmain.birthd	Date	DOB	8	Date of Birth	MMDDYY	Format the date of birth as month, day, year, without slashes. For example, "070175."
nmextra.bstate	2	POB	2	Place Of Birth		

SDS FIELD NAME	SDS FIELD SIZE	TAG NAME	TAG SIZE	DESCRIPTION	SPECIAL FORMATS	NOTES
nmmain.sex	1	SEX	1	Sex		
nmmain.race	1	RACE	1	Race		
nmmain.height	5	HEIGHT	3	Height	fii	Format the height as feet, inches, without any other characters. For example, "601."
nmmain.weight	Short	WEIGHT	3	Weight		
nmmain.eyes	3	EYES	3	Eye Color		
nmmain.hair	3	HAIR	3	Hair Color		
nmmain.last, .first, middle	30, 15, 15	ALIAS1 ALIAS2 ALIAS3 ALIAS4	13 13 13 13	Alias 1 Alias 2 Alias 3 Alias 4	last, first middle	This specification indicates that the fingerprint interface should take the last, first, and middle names from the first four alias records, combine them, and place one each into the tags ALIAS1, ALIAS2, ALIAS3, and ALIAS4.
tbagency.ori	9	ORI1	9	Arresting Agency ORI		
tbagency.name	30	ORI2	20	ORI Name		
tbagency.city, state	15, 2	ORI3	20	ORI City, State	City, ST	Format the text in the tag as City, ST. For example, "Logan, UT."
jlarrest.ref	21	OCA	12	Originating Agency Case Number		
nmmain.fbinum	15	FBI	12	FBI Number		
nmmain.stateid	15	SID	10	State ID Number		
nmmain.ssn	11	SOC	11	Social Security Number	99999999 9	Format the social security number without dashes. For example, 523523823.
jlarrest.date	Xtime	DOA	8	Date of Arrest	MMDDYY	Format the arrest date as month, day, year, without slashes. For example, "060397."
jloffens.date	Xtime	DOO	8	Date of Offense	MMDDYY	Format the offense date as month, day, year, without slashes. For example, "060397."
jloffens.ncic jloffens.ncic jloffens.ncic	9 9 9	NCIC1 NCIC2 NCIC3	4 4 4	NCIC Code 1 NCIC Code 2 NCIC Code 3		This specification indicates that the fingerprint interface should take the first three NCIC codes and place them into the tags NCIC1, NCIC2, and NCIC3.
jlofncic.descrpt jlofncic.descrpt jlofncic.descrpt	30 30 30	CHARGE1 CHARGE2 CHARGE3	22 22 22	Charge 1 Charge 2 Charge 3		This specification indicates that the fingerprint interface should take the descriptions for the first three NCIC codes and place them into the tags CHARGE1, CHARGE2, and CHARGE3.
jloffens.classif jloffens.classif jloffens.classif	3 3 3	FELMIS1 FELMIS2 FELMIS3	1 20 20	Crime Class 1 (F or M) Crime Class 2 (F or M) Crime Class 3 (F or M)		This specification indicates that the fingerprint interface should take the classifications for the first three offenses and place them into the tags FELMIS1, FELMIS2, and FELMIS3.
jloffens.statute jloffens.statute	16 16	CITAT1 CITAT2	20 20	Statute Citation 1 Statute Citation 2		This specification indicates that the fingerprint interface should take the

SDS FIELD NAME	SDS FIELD SIZE	TAG NAME	TAG SIZE	DESCRIPTION	SPECIAL FORMATS	NOTES
jloffens.statute	16	CITAT3	20	Statute Citation 3		statues for the first three offenses and place them into the tags CITAT1, CITAT2, and CITAT3.
nmextra.emplyr	30	EMPNAME	30	Employer		
nmextra.jobdesc	30	OCCUPAT	16	Occupation		
nmmain.street	40	HOMADD1	40	Street		
nmmain.city	15	HOMADD2	16	City		
nmmain.state	2	HOMADD3	2	State		
nmmain.zip	10	ZIP	5	Zip		
nmsmt.type, bodp, item, misc	4, 2, 4, 30	SMT	40	Scars, Marks and Tattoos		

1

CopLogic Interface

Description

Part of Spillman's XML Interface System includes the Law Incident Interface. The Law Incident Interface allows agencies to easily populate information from CopLogic into the Spillman database. The interface allows information from CopLogic to send law incident data to the Spillman Database. Upon completing the information in CopLogic, the interface will generate an XML document containing the information, and import the data into the Spillman database.

When a law incident record is created or modified, the interface will add or modify a record in the Spillman Database.

There are two methods for CopLogic to transfer the XML data to the Spillman Server. They will determine which method is used on a case by case basis.

1. XML file drop

- a. The correctly formatted XML file is placed in a folder.
 - The Spillman server must have access to read and delete files from the directory.
- b. A script launched by a cron job loads the file into the Spillman XML Import Interface.
- c. No success/fail message is sent; instead the following occurs:
 - Successfully sent files are deleted from the folder.
 - Unsuccessfully sent files are left in the folder.

2. Socket Connection

- a. The third-party software makes a socket connection to the Spillman Interface.
 - The API for the socket connection is available upon request.
- b. The third-party sends the correctly formatted XML file across the socket connection.
- c. The Spillman Interface replies with a success/fail message as well as the unique key of the records that were added or updated.

Requirements

General

- General requirements for using CopLogic software and interface apply.
- General requirements for Spillman software apply.
- Supported server OS platforms: UNIX (not Windows)

1 **Hardware**

- 2 • Hardware requirements for using CopLogic software and interface apply.
- 3 • Hardware requirements for Spillman software apply.

4 **Software**

- 5 • Software requirements for using the CopLogic software and interface apply.
- 6 • Software requirements for Spillman software apply.
- 7 • Either transfer method:
 - 8 – Socket connection between the third-party software and the Spillman server
 - 9 – XML file drop in a folder that the Spillman server has access to.

10 **Documentation**

- 11 • There is only developer SDK documentation, there is no user interaction with the
12 interface. It is all setup by Spillman Installations and runs automatically from that
13 point on.

14 **Training**

- 15 • No training is needed for this interface product.

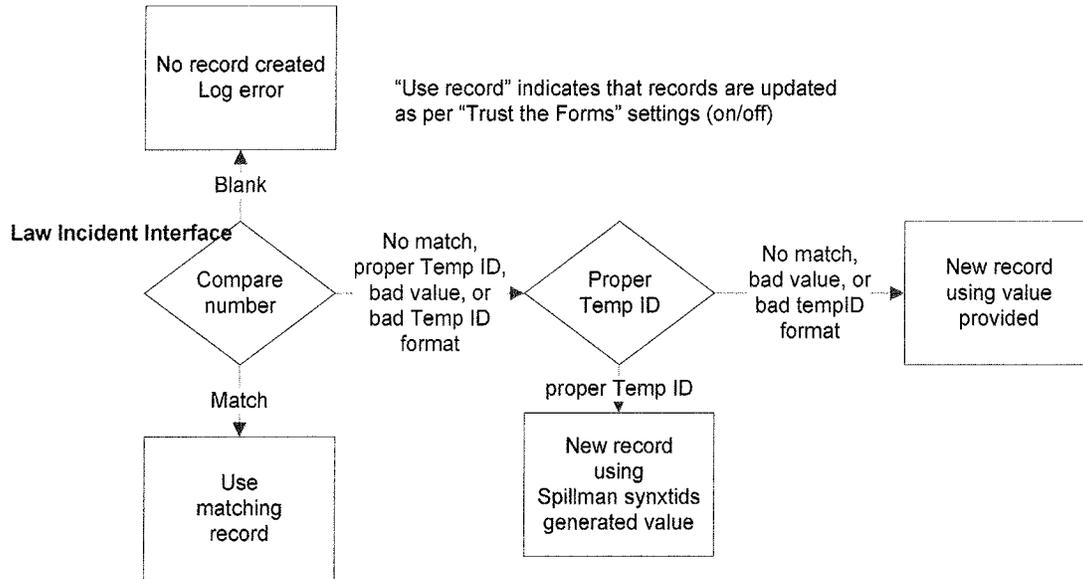
16 **User Information**

17 To create Spillman records, the interface receives XML data from the third-party software and
18 imports it to the designated Spillman data fields. If fields in the third-party software are not
19 mapped to the Spillman software, the information in the third-party fields can be included in
20 the **Comments** field in the Spillman record. This is accomplished through the third-party
21 software by including unmapped information in the comments XML tag of the XML file.

22 **Creating records from accident or citation/warning data**

23 When the interface receives a data transfer for an accident or citation/warning from the
24 third-party software, it searches the appropriate **Accident Number**, **Citation Number** or
25 **Warning Number** field in the database for matching numbers. If the interface finds a
26 matching number, it updates the existing record with the information from the third-party
27 XML record. If a matching number does not exist, a new record is created in the appropriate
28 table using the logic as follows:

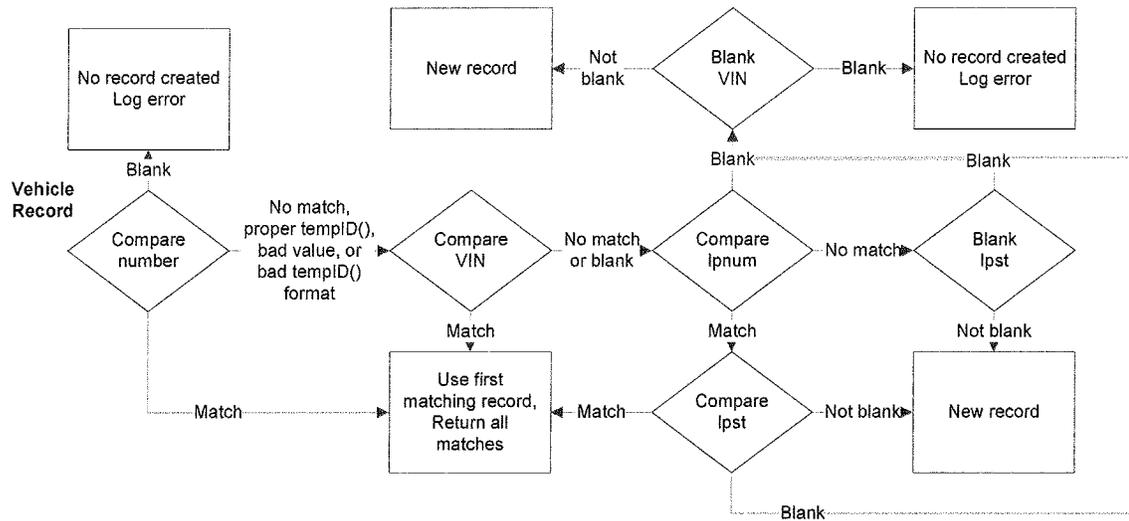
29



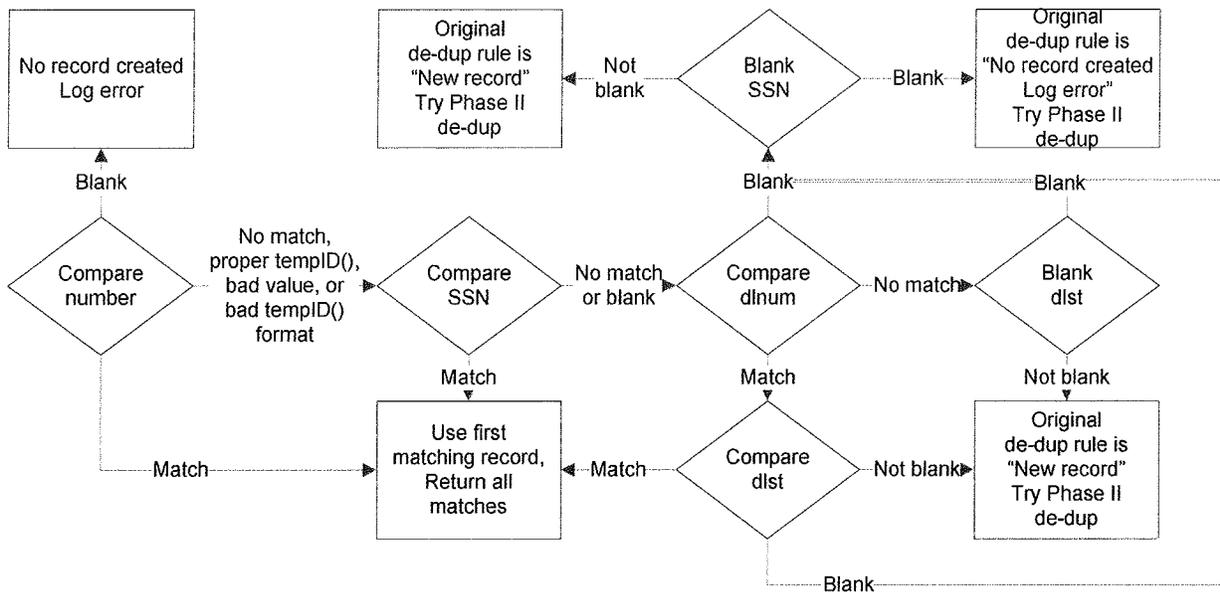
1

1
2
3

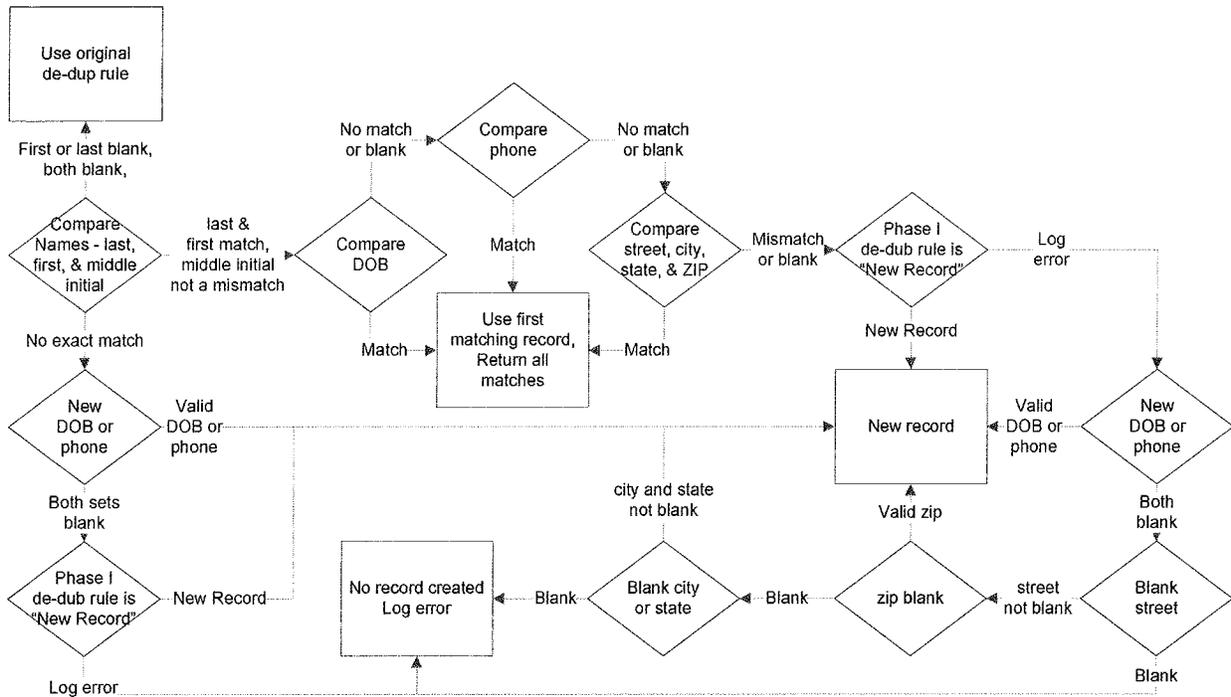
It then searches the appropriate Spillman Name or Vehicle table for matching data using the Spillman duplicate searching logic as follows:



4



5
6



1

2

3

4

5

6

The interface then links the law incident to the new or existing Spillman Name or Vehicle record. The "Trust the Form" option is what tells the interface what data to keep as the information of record. If there is data in the Spillman field and the third-party data does not match, this option determines which data is stored in the field and which data is recorded in the comments field.

7

1. "Trust the Form" option OFF:

8

a. If a Spillman field contains data, and the XML file contains different data,

9

i. The data from the corresponding third-party field will be documented in the comments field.

10

11

ii. If a Spillman field is blank, the interface enters the data from the corresponding third-party field into the blank Spillman field.

12

13

14

2. "Trust the Form" option ON:

15

a. If a Spillman field contains data and the XML file contains different data.

16

i. The data from the Spillman field will be moved to the comments field.

17

ii. The data from the corresponding third-party field will replace the existing data in the Spillman field.

18

19

b. If a Spillman field is blank the interface enters the data from the corresponding third-party field into the blank Spillman field.

20

21

Note: Name records *nmhistory* and Vehicle records *vhmhist* are updated with the appropriate information

1 If the software finds more than one matching record, the software assumes that the first
2 record is the primary record and that any other records are duplicates. When duplicates are
3 found, the software updates the first matching record it finds and makes a log entry
4 containing the list of potential matching records. If the third-party is connected using a
5 socket connection, the list of potential matching Name records is also sent with the
6 success/fail message.

7 **SAA Information**

8 The following information is provided for informational purposes only. As Prime Contractor,
9 Spillman is responsible for System installation and will assist with these tasks as may be
10 necessary to ensure a successful installation.

11 **Setting up the third-party Interface**

12 Before you can use Spillman's law incidents Interface, you must:

- 13 • Have a Windows server to run the Spillman software.
- 14 • Have the third-party software installed.
- 15 • Determine if the "Trust the Form" option will be on or off.
- 16 • File drop method:
 - 17 – Set up a directory in which the third-party software can deposit the XML data.
 - 18 ▪ The Spillman server must have read and delete access to the files.
 - 19 ▪ The agency is responsible for network connectivity between the Spillman
 - 20 server and the third-party computer.
 - 21 ▪ The agency is responsible for the transfer of the file to the directory
 - 22 whether by FTP, direct access writes, etc.
- 23 • Socket connection method:
 - 24 – Determine the socket connection port to utilize (default 9999).
 - 25 ▪ The agency is responsible for providing network security for that port.
 - 26 ▪ The agency is responsible for network connectivity between the Spillman
 - 27 server and the third-party computer.
 - 28 – The third-party must be able to make a valid socket connection and send the
 - 29 XML data correctly formatted to one of the Spillman XML Import Interfaces.

30 The Spillman Installation or the Spillman Support department set up the XML server for the
31 interface using the port and "Trust the Form" option setting selected above.

1 **Maintaining the third-party Interface**

2 After the interface transfers the data from the third-party software to the Spillman software, a
3 user or SAA should perform the following tasks:

- 4 • Validate the data transferred to the Spillman tables, and add any additional information
5 that is necessary.
- 6 • Review the log file. The log file provides information on the status of the data transfer. If
7 you find any errors, contact Spillman Customer Support for help with correcting them.
8 You can set up the software to send an email message to notify users when errors occur.
9 Use the MAILADM environment variable to determine who is notified about errors.
- 10 • Delete or back up the log file after making corrections. If you do not delete or back up
11 the log file, it becomes increasingly large.

12 The Spillman Installation department performs the initial setup and installation of Spillman's
13 Field-based Reporting Interfaces. However, you might need to start and stop the interface for
14 maintenance and troubleshooting. Use *dstart* and *dstop* or the Daemon Manager screens
15 (*sydaemon* and *sydgmng*) to start and stop the interface.

16 **Setting the MAILADM environment variable**

17 The MAILADM environment variable determines who receives email notification of errors
18 that occur when information is transferred from the third-party interface to the Spillman
19 software. When setting the MAILADM environment variable, use commas to separate the
20 email addresses.

21 **Setting up the interface on the Spillman server**

22 Follow the directions given in the Tomcat Application Manager Support Package to ensure
23 the appropriate WAR files are deployed for the Law Incident Interface.

24 **Implementation Task List**

- 25 1. Install or be upgraded to Summit 4.6 or greater.
- 26 2. Deploy WAR files for Law Incident Interface. Call Spillman Support for assistance if
27 assistance is needed.
- 28 3. Third party develops interface and tests with Spillman's test server. Specifications for
29 the test server are available in the Support Package for third parties.
- 30 4. Upon test completion, interface is deployed live at Spillman site for go live and any
31 additional testing.

1 **Maintenance Information**

2 The XML Interface System has little maintenance. The deployment and starting and stopping of
3 the specific interfaces within the Interface System are handled at the file layer. The XML
4 Interface does not need to be started and stopped if an error occurs. The specified WAR file for
5 the Law Incident Interface will just need to be stopped and restarted, in some cases redeployed,
6 if an error occurs. If there are additional problems, Spillman Support will need to be contacted
7 for assistance.

Mobile AVL and Mapping

Description

With Spillman Mobile AVL and Mapping, officers, dispatchers, and supervisors who have access to Spillman Mobile can view the location of agency units and Computer-Aided Dispatch (CAD) calls on a map. The Spillman Quickest Route (Network Analyst) system also uses the current location of all units to determine which unit can arrive on scene the fastest.

The Spillman Mobile AVL and Mapping module uses an Automatic Vehicle Location (AVL) system to track the location of the units. For the AVL system to work, a Global Positioning System (GPS) receiver must be installed in each unit that the agency wants to track. The GPS receiver measures the unit's distance from a group of GPS satellites and then uses that measurement to calculate the unit's current latitude and longitude.

If the agency uses the Garmin GPS 18, Spillman Mobile (version 4.1 or higher) must be running on a laptop (with one available USB port) installed in the unit. Spillman Mobile sends the position of the unit, along with other Spillman Mobile data, via the CDPD or private network, to the Spillman Mobile server. The Spillman Mobile server processes the AVL data as well as the Spillman Mobile queries and CAD information.

Requirements

General

- The Mobile software will be loaded on a Spillman-approved hardware platform, as outlined in current Spillman policies.
- Spillman technicians must have direct modem access to the server where the Mobile software is loaded.

Hardware

- **Server AVL Devices** – GPS communicates directly to AVL server
 - Bluetree 5600 EV-DO (5000 Series)
<http://www.bluetreewireless.com/products/wireless/details.asp?id=41>
 - Sierra Wireless AirLink PinPoint X
<http://www.sierrawireless.com/product/airlink/pinpointx.aspx>
 - Sierra Wireless AirLink MP 595/597
http://www.sierrawireless.com/en/productsandservices/AirLink/In-Vehicle_Platforms/AirLink_MP.aspx
 - Trimble Placer Gold APU & Placer Gold Dead Reckoning Unit Plus
http://www.trimble.com/mobile_resource_management/placer-gold-series.aspx?dtID=overview

- 1 – Nexus Hawk 1000G, 1000WG, 2000G, 2000WG
- 2 http://www.nexusisr.com/nexus_hawk.php
- 3 • **Client AVL Devices** – GPS communicates through the Spillman Mobile client
- 4 – AntennaPlus AP-Navigator 4x - APG100/85/18/24 (USB via virtual serial)
- 5 <http://www.antennaplus.com/products/AP-Navigator-4x.aspx>
- 6 – Garmin eTrex (Serial)
- 7 <https://buy.garmin.com/shop/shop.do?pID=6403>
- 8 – Garmin GPS18x OEM (USB)
- 9 <https://buy.garmin.com/shop/shop.do?cID=158&pID=27594>
- 10 – GPS Insight GPSI-4000 (Serial)
- 11 <http://www.gpsinsight.com/sites/default/files/downloads/documents/GPSI.SpecSheet.GPSI-4000.pdf>
- 12
- 13 – IOGear GPS GBGPS201 (Bluetooth)
- 14 <http://www.iogear.com/product/GBGPS201/>
- 15 – Itronix GoBook XR-1 (integrated GPS via virtual serial)
- 16 <http://www.gd-itronix.com/index.cfm?page=Products:XR-1>
- 17 – Panasonic Toughbook 30 (integrated GPS via virtual serial)
- 18 <http://www.panasonic.com/business/toughbook/fully-rugged-laptop-toughbook-30.asp>
- 19
- 20 – Sprint (Sierra Wireless) Compass 597u (USB via virtual serial)
- 21 http://www.sierrawireless.com/Product/compass_597.aspx
- 22 – Sprint (Novatel Wireless) Merlin S720 (USB via virtual serial)
- 23 <http://support.sprint.com/main.html?selectedDeviceId=8107>
- 24 – GlobalSat BU-353
- 25 – www.usglobalsat.com/p-62-bu-353-w.aspx

26 **Note:** For accuracy and signal strength Spillman strongly recommends that an external antenna be used with all GPS
 27 devices. The antenna should be mounted on roof or windshield to ensure a clear view of the sky.

28 **Other NMEA 2.0 Compatible Devices**

29 Many GPS devices are capable of outputting data in the NMEA 2.0 standard, which is
 30 compatible with Mobile 4.3+. If there are any issues using a non-certified NMEA device the
 31 device must be sent to Spillman for testing and certification. This test and certification process
 32 will be charged on a time and materials basis.

33 One key to look for in the output of a NMEA compatible device is the “Recommended
 34 Minimum Criteria” or RMC sentence as shown below. Mobile requires this sentence to work
 35 with the Spillman AVL system.

36 \$GPRMC,170520.5,V,4223.24585,N,07100.98735,W,0.0,031106,0.0,N*6A

1 Even if the device supports this sentence it may not be compatible with Spillman Mobile. Some
2 GPS devices create virtual serial ports that are not compatible.

3 **Other Hardware**

- 4 • Wireless network to the Spillman server.
- 5 • Ruggedized laptop running Mobile with Windows 2000 Professional/XP/Vista/7.
- 6 • Mounting hardware for the laptop.

7 **Software**

- 8 • A complete map of your agency's jurisdiction (in ESRI Shape file format) in either
9 Mobile or CAD.
- 10 • AVL turned on in Mobile.
- 11 • AVL manager process running.
- 12 • Modem watcher program on the computer configured and talking to the modem.
- 13 • Third-party GIS software, such as MapInfo or Arcview.

14 **Documentation**

- 15 • Documentation for Spillman Mobile AVL is provided in online Help format in the
16 Spillman Mobile software.

17 **Training**

- 18 • Training is optional for this product. However, if Mobile AVL and Mapping is sold with
19 other Mobile products, training will be included.

20 **Implementation Task List**

21 The task checklist to record the date of when each item is completed:

22

1 Pre-Installation

Date	Responsible Party	Description
	Spillman	Contact the agency's SAA to schedule a time for the installation.
	Spillman	Verify that the agency has the proper modem and GPS equipment.
	Spillman	Provide agencies with installation software for installing the Spillman Mobile AVL module on the client PCs.
	Spillman	If the AVL hardware is purchased through Spillman—deliver the AVL hardware to the hardware (Mobile) installer.
	Agency	Have the latest version of the Spillman Geobase software installed and running.
	Agency	Obtain a map of your agency's jurisdiction that uses latitude and longitude coordinates.
	Agency	From this map, create your agency's Geobase, using latitude and longitude coordinates.
	Agency	Ensure that each layer in your agency's map is created properly. The Installation department at Spillman Technologies, Inc. can answer questions regarding the format of the layers.
	Agency	Set up the map of your agency's jurisdiction on one client personal computer. Then, create a map package and load the map on the other client personal computers.
	Agency	Make sure that your agency's Spillman Applications Administrator (SAA) is certified according to current Spillman requirements.

2 Initial Installation

Date	Responsible Party	Description
	Spillman	During the initial installation, set up the appropriate parameters in the Spillman Application Parameters table (apparam).
	Spillman	Check the communication between the Spillman Mobile server and the client personal computers.
	Spillman	Turn on AVL in Mobile.
	Spillman	Configure AVL on the Spillman server.
	Spillman	Install the Spillman Mobile AVL module on

Date	Responsible Party	Description
		any client personal computers over the number specified in your contract.
	Spillman	Configure and connect the wireless modem to connect to the Spillman server.
	Agency	Wireless network to the Spillman server.
	Spillman	Configure the wireless watcher program on the Mobile PC to communicate with the modem.
	Spillman	Install Mobile 4.0 or higher on the Mobile PCs.

1 **Pre-Live**

Date	Responsible Party	Description
	Spillman	Test interface.
	Agency	Help with interface testing.

2 **Live**

Date	Responsible Party	Description
	Spillman	Act as the first line of support for any concerns pertaining to Spillman-approved software. Support calls about hardware or wireless communications should be directed to your hardware or wireless providers.
	Agency	Perform all administration duties associated with your agency's version of the Windows operating system.
	Agency	Provide Spillman Customer Support technicians with direct access to the server computer on which the Spillman software is installed.

3 **Maintenance**

- 4
- Upgrades to the software must be performed by an authorized Spillman technician.

Pictometry Interface

Description

The Spillman Pictometry map allows a user to view Pictometry imagery by clicking a location on a Spillman CAD map, Pin map or Mobile map. Pictometry imagery allows a user to view imagery from five different perspectives: north, east, south, west and orthogonal (overhead). While viewing the Pictometry imagery the user can also measure distance, height, area, bearing and location of items on the map. The area being viewed on the Pictometry map is highlighted on the associated Spillman map.

Requirements

General

- The Spillman software must be loaded on a Spillman-approved hardware platform, as outlined in current Spillman policies.
- Spillman technicians must have direct modem access to the server where the Spillman software is loaded.
- The agency must acquire Pictometry imagery for the geographic area around the agency.
- The agency will utilize Pictometry ActiveX licenses for each computer that will be using the Spillman Pictometry map.

Hardware

- No additional hardware requirements for this product.

Software

- Spillman Pictometry Mapping module.
- One or more of the following Spillman Mapping modules: CAD Mapping, Pin Mapping, or Mobile Mapping.
- Spillman 6.1 or later (for CAD and Pin Mapping).
- Mobile 4.6 or later (for Mobile Mapping).

Training

- Available with mapping, quickest route or pin mapping training.

User Information

Users have two ways to open the Spillman Pictometry map:

- Press the Pictometry button on the map toolbar.
- Right-click a point on a Spillman map and select the Pictometry option from the context menu.

1 While the Spillman Pictometry map is open, the area being viewed is represented by a
2 highlighted polygon on the Spillman map. The Pictometry map opens in a separate window
3 that has its own toolbar and mapping controls.

4 **SAA Information**

5 Pictometry imagery must be accessible to each client running the Spillman Pictometry map.
6 This often means loading gigabytes of Pictometry image files onto each computer running
7 Pictometry mapping.

8 Pictometry requires that each computer viewing Pictometry maps have a license. Contact
9 Pictometry for instructions on obtaining ActiveX Pictometry licenses for each computer that will
10 be using the Spillman Pictometry map.

11 The first time Spillman Pictometry is used on a computer, the software asks for the location of
12 both the Pictometry image warehouse and Pictometry license file. Once the locations are
13 properly set, it works for all users of that computer.

14 **Maintenance Information**

15 • Upgrades to the software must be performed by an authorized Spillman technician.

16 Customer's SAA must be readily available to aid in the upgrade process.

Higher Ground Interface (Fisher)

Description

This interface will be produced by Spillman for automatically sending the call incident ID, the time stamp of the completed call, and the CAD station taking the call, to Higher Ground. Higher Ground then stores that Incident ID with the recorded 911 call for logging purposes.

Requirements

- Connection – Spillman will initiate the connection to the Higher Ground server when a CAD Call is completed, using a TCP/IP Socket connection.
- Format – Text delimited Commands as detailed in the Higher Ground API document.
- Data Transmitted – The data that Spillman will send to Higher Ground is information from the 911 call, including but not limited to the Call or Incident ID, the time of the completed call, the cad station the call came from, and the call type.
- Version – Spillman Sentryx 6.1 +

Recommended Process

The dispatcher will go through the process of completing a 911 call. When the call is completed, Spillman will trigger an event to push the call data to Higher Ground. Higher Ground will merge the call information sent through the interface with the recorded 911 call in their system for later retrieval.

Deliverables

- Interface Software – Higher Ground Interface as described in the requirements section.
- Installation Services – Spillman will install the Higher Ground Interface and have it performing as described in the Interface requirements.
- Testing – After installation, Spillman will test and monitor the interface for a period of time fixing any Defects and adjusting any configurations to ensure the interface is running according to requirements.
- Support Services – After Final System Acceptance, Spillman Support will take calls if issues arise with the interface according to Spillman's Maintenance and Support Agreement (Exhibit G).

Chameleon Interface (Fisher)

Description

Chameleon is software used by Animal Services for records management. Spillman will take available CAD information from Calls of Service for Animal Control and push it to Chameleon. This is a one way interface between CAD and the Animal Services DBMS product, Chameleon.

Requirements

- Connection – Spillman will connect to an FTP Server to send CAD data from Spillman to Chameleon. Chameleon will pick up the CAD records and manage the archival and deleting of files in the directories on the FTP Server.
- Format – This interface will drop CAD data from Spillman into a directory where Chameleon will then pick up the XML files.
- Data Transmitted – The information being transferred from Spillman to Chameleon is Dispatch Calls of Service for Animal Control type calls only.
- Data Mapping – Spillman will map all data fields to the existing Chameleon fields to reduce or eliminate the need for Chameleon to translate data.
- Data Flow – The data will originate from Spillman’s dispatch software and will be pushed by Spillman to the Chameleon software as calls are completed.
- Version – Spillman Sentryx 6.1 +

Recommended Process

The agency will setup one or more units in their system for animal control. CAD Calls entered into Spillman requiring an animal control response will have an animal control unit dispatched to them in Spillman CAD. When the call is completed, Spillman will push the call information to the Chameleon system.

Deliverables

- Interface Software – Chameleon Interface as described in the requirements section.
- Installation Services – Spillman will install the Chameleon Interface and have it performing as described in the Interface requirements.
- Testing – After installation, Spillman will test and monitor the interface for a period of time fixing any Defects and adjusting any configurations to ensure the interface is running according to requirements.
- Support Services – After Final System Acceptance, Spillman Support will take calls if issues arise with the interface according to Spillman’s Maintenance and Support Agreement (Exhibit G).

SWITRS

Description

SWITRS stands for State Wide Integrated Traffic Records System. SWITRS contains information entered into traffic and collision reports that is required to be submitted to California Highway Patrol (CHP). SWITRS was developed to reduce double entry of traffic and collision reports, once by the agency completing the form and again by CHP clerks. With the creation of SWITRS, the originating agency can enter the information on the form and submit the information directly to SWITRS, which CHP has access to and fulfills the requirement to submit traffic and collision information to CHP, thereby having only one entry.

The method used to submit data to SWITRS is through a web service called CCRS or California Collision Reporting System. It is this service that Spillman will utilize to electronically submit collision reports to SWITRS.

Requirements

- Connection – SWITRS exposes a web service which will be consumed by Spillman. Therefore Spillman will initiate connection to the SWITRS web service and once connection is made, submit collision records.
- Format – SWITRS utilizes Extensible Markup Language (XML), for the message format of the collision data.
- Data Transmitted – The data that Spillman will send to SWITRS is collision data from the Spillman 555 Collision Form.
- Version – Spillman Sentryx 6.1 +
- Spillman will develop against the specification document received from CHP entitled CHP_CCRS_Developers_Guide

Recommended Process

The Spillman Collision 555 Form is filled out by user and then pushes the Submit button. Also upon select of the submit button, Mobile connects to the Spillman Web Service to compile information from the form and convert the data into SWITRS XML. The Spillman Web Service will also retrieve user ID information to package with the collision data and then connect to the SWITRS Web Service, submitting the collision data. The workflow and approval process will include on-line approval of the report by a Supervisor prior to submission of the report. SWITRS loads data and returns a success or failure message.

Deliverables

- Interface Software – SWITRS Interface as described in the requirements section.
- Installation Services – Spillman will install the SWITRS Interface and have it performing as described in the Interface requirements.

- 1 • Testing – After installation, Spillman will test and monitor the interface for a period of
2 time fixing any Defects and adjusting any configurations to ensure the interface is
3 running according to requirements.
- 4 • Support Services – After Final System Acceptance, Spillman Support will take calls if
5 issues shall with the interface according to Spillman’s Maintenance and Support
6 Agreement (Exhibit G).

LAWS InSight Interface (Fisher)

Description/Purpose

The LAWS DBMS System is a database allowing users to conduct a name or vehicle license plate query from InSight to retrieve warrant/arrest information associated with the name or vehicle queried. Queries will be run on a name or a vehicle license plate by using InSight user interface or using the DQ or RQ commands from the CAD Command Line. Data returned will be warrants based on the queries submitted.

Requirements

- Connection – The interface will connect to the JCAD API. The API utilizes the SOAP web service protocol. They expose their web service for Spillman to connect to and authenticate with.
- Format – The JCAD API uses two Oracle stored procedures. The queries are formatted in XML calling the two stored procedures that handle a name and vehicle query retrieving warrant information.
- Data Transmitted – Queries will be run on a name or a vehicle license plate.
- Data Returned – Data returned will be information based on the InSight Booking Schema as constituted in the InSight JXML Query SDK, located at the end of this document. Also, Involvement queries are only possible for queries to another Spillman database. There is no such functionality for Insight queries to a third party database.
- Version – Spillman Sentryx 6.1 +

Recommended Process

Patrol - The user enters name or vehicle information to be queried into the Spillman Mobile Query Form, makes sure to select the checkbox for Insight, which can be defaulted to always be selected, and pushes search. Spillman connects to the LAWS System through the Spillman Insight Message Broker. The returning information will be shown in the Spillman Mobile Client of the requesting user.

Dispatch - The user enters name or vehicle information to be queried into the CAD Command Line using the DQ (name) or RQ (vehicle) commands, and pushes enter to initiate the search. Spillman runs DQ and RQ CLETS Queries as well as connects to the LAWS System through the Spillman Insight Message Broker. The returning information will be shown in Spillman Message Center of the requesting user.

Deliverables

- Interface Software – LAWS Interface as described in the requirements section.

- 1 • Installation Services – Spillman will install the LAWS Interface and have it performing
2 as described in the Interface requirements.
- 3 • Testing – After installation, Spillman will test and monitor the interface for a period of
4 time fixing any Defects and adjusting any configurations to ensure the interface is
5 running according to requirements.
- 6 • Support Services – After Final System Acceptance, Spillman Support will take calls if
7 issues arise with the interface according to Spillman’s Maintenance and Support
8 Agreement (Exhibit G).

- 1 • Interface Software – Probation and Case Management Interface as described in the
2 requirements section.
- 3 • Installation Services – Spillman will install the Probation and Case Management
4 Interface and have it performing as described in the Interface requirements.
- 5 • Testing – After installation, Spillman will test and monitor the interface for a period of
6 time fixing any Defects and adjusting any configurations to ensure the interface is
7 running according to requirements.
- 8 • Support Services – After Final System Acceptance, Spillman Support will take calls if
9 issues arise with the interface according to Spillman’s Maintenance and Support
10 Agreement (Exhibit G).

E-Citations Submission to Courts

Description

This interface will be produced by Spillman for automatic citation submissions to the county courts system in San Joaquin County.

Requirements

- Connection – Spillman will initiate a connection to the County Courts System’s FTP Server. Specifications detailing the authentication and connection requirements to this server will be provided by Tracy PD prior to development.
- Format – Text delimited, CJIS standards
- Data Transmitted – The data that Spillman will send to the county court system is limited to the information collected on the Spillman Citation Form.
- Version – Spillman Sentryx 6.1 +

Recommended Process

The officer will enter citation information into the Spillman Citation Form in Mobile and push the submit button. At this point the citation enters Spillman Workflow for review and approval. When the citation is approved, Spillman will submit the citation information to the county court’s FTP Server and input the citation record in the Spillman database.

Deliverables

- Interface Software – E-Citation to Courts Interface as described in the requirements section.
- Installation Services – Spillman will install the E-Citation to Courts Interface and have it performing as described in the Interface requirements.
- Testing – After installation, Spillman will test and monitor the interface for a period of time fixing any Defects and adjusting any configurations to ensure the interface is running according to requirements.
- Support Services – After Final System Acceptance, Spillman Support will take calls if issues arise with the interface according to Spillman’s Maintenance and Support Agreement (Exhibit G).

Evidence Reports

The purpose of SOW Attachment 1 is to set clear expectations for the capabilities and user process for the 3 custom evidence reports included in Exhibit H, Pricing Summary and Detail.

Report 1: California DOJ; Gun Release Form Report

Description

The Gun Release Application is a request from a gun owner to reclaim possession of their gun. It contains information about the applicant and a list of the handguns that are being requested.

Requirements

The report will provide the applicable data needed by the California DOJ that is available in the Spillman system. Spillman will implement a report, using the default system style, that satisfies the layout and information presented by the example form.

The form will print Information from the Incident and the Complainant. It will also search Property and Evidence records for related Handguns and list them.

Recommended Process

When a Gun Release is required, the Spillman user will open the Law Incident screen to the case which the guns are related property or evidence. The form is not equipped to handle multiple incidents simultaneously. If the requested guns involvements are distributed across multiple incidents, the Spillman user will need to print an individual form for each Incident.

They will select the "PRT" command and choose the "Gun Release Form" option from the list. Normal printing procedure follows.

Report 2: California DOJ; ALPS Form Report

Description

The ALPS Form is a submission request to send Latent Fingerprints to the California DOJ. It contains information about the Fingerprint evidence as well as information about the related Incident, interesting persons, and a chain of custody for the submitted evidence.

Requirements

The report will provide the data needed by the California DOJ that is available in the Spillman system. Spillman will implement a report using the default system style that satisfies the layout and information presented by the example form.

The form will print Information from the Incident and the Complainant. It will also search Evidence records for related Latent Fingerprint items and list them.

Recommended Process

When an ALPS Submission is required, the Spillman user will open the Law Incident screen to the case which the prints are related evidence. The form is not equipped to handle multiple

1 incidents simultaneously. If the submitted prints are distributed across multiple incidents, the
2 Spillman user will need to print an individual form for each Incident.

3 They will select the "PRT" command and choose the "ALPS Submission Form" option from the
4 list. Normal printing procedure follows.

5 The example form requires information that is not stored in the Spillman system. This
6 information will need to be supplied by the user after the report has been printed. Space for
7 this information will be provided.

8 **Fields that will not populate from Spillman:**

9 New/Addition/Resubmission form status

10 ALPS Case Number

11 Special Instructions/Requests

12 Case Examination Results

13 Disposition of Materials

14 (Method of Transit requires correct setup of Evidence Code Tables.)

15 **Report 3: California DOJ; Physical Evidence Submission Form Report**

16 **Description**

17 The Physical Evidence Submission Form is a submission request to send Evidence to the
18 California DOJ. It contains information about the evidence as well as information about the
19 related Incident, interesting persons, and a chain of custody for the submitted evidence.

20 **Requirements**

21 The report will provide the data needed by the California DOJ that is available in the Spillman
22 system. Spillman will implement a report using the default system style that satisfies the layout
23 and information as presented by the example form.

24 The form will print Information from the Incident and the Complainant. It will also search
25 Evidence records for any related evidence and list it.

26 **Recommended Process**

27 When an Evidence Submission is required, the Spillman user will open the Law Incident screen
28 to the appropriate case. The form is not equipped to handle multiple incidents
29 simultaneously. If the submitted evidence items are distributed across multiple incidents, the
30 Spillman user will need to print an individual form for each Incident.

31 They will select the "PRT" command and choose the "Physical Evidence Submission Form"
32 option from the list. Normal printing procedure follows.

33 The example form requires information that is not stored in the Spillman system. This
34 information will need to be supplied by the user after the report has been printed. Space for
35 this information will be provided.

- 1 **Fields that will not populate from Spillman:**
- 2 BFS Related Case #
- 3 BFS Case #
- 4 Information and Report Security
- 5 Comments or Requests for Service

San Joaquin County Booking/Arrest Report I

Description

The San Joaquin County Jail Booking Form is used to present Inmate information to the County Jail upon admission to those facilities. It contains demographic and descriptive information about the inmate, as well as a list of charges and officer comments.

Requirements

- The exact form must be followed as presented.
- Information that exists in the Spillman system will populate the respective fields. (marked in Green on Fig. 1 and 2)
- Translations from Spillman coded fields to San Joaquin coded fields will be provided by Tracy Police Department. (marked in Blue on Fig. 1 and 2)
- Fields requesting information that is not contained in the Spillman system will remain blank. (marked in Red on Fig. 1 and 2)

Recommended Process

At the time of Booking an inmate will be entered into the Spillman system at Tracy Police Department. Demographic and Arrest information will be stored as part of the normal Booking procedure. After this booking is completed the User will run the San Joaquin Arrest Form report. They will print the form using standard procedure to either a paper copy or a PDF.

Fields on the form requesting information that is not contained in the Spillman system will be need to be supplied after the form has been printed.

1 **Figures**

- 2 • Arrest Form Page 1

3

Spillman Provided Translation Required Manually Entered

Page _____ of _____
DUPLICATION OR REISSUANCE CONTROLLED BY LAW
 Released to _____ Date _____
 By _____

SAN JOAQUIN COUNTY, CALIFORNIA
BOOKING/ARREST REPORT

CASE NUMBER: _____
 SHERIFF BOOKING #: _____

Building Time: _____

Prer. Class	Prer. Description	Off #	PBR #
Local Name	First	Middle	Initial
AKA/S	Nickname	Race	Sex
DOB	Age/DOB	DL#	State
Exp.	Exp.	Exp.	Exp.
Additional Information/Other Descriptions About Suspects (Glasses, tattoos, scars, teeth, etc.)			
LAR # _____			

HAIR LENGTH/TYPE	HAIR STYLE	FACIAL HAIR	COMPLEXION	GENERAL APPEARANCE	DEMANDOR	SPEECH
<input type="checkbox"/> 01 Unknown	<input type="checkbox"/> 01 Unknown	<input type="checkbox"/> 01 Unknown	<input type="checkbox"/> 01 Unknown	<input type="checkbox"/> 01 Unknown	<input type="checkbox"/> 01 Unknown	<input type="checkbox"/> 01 Unknown
<input type="checkbox"/> 02 Bald	<input type="checkbox"/> 02 Straight	<input type="checkbox"/> 02 Clean shaven	<input type="checkbox"/> 02 Pale	<input type="checkbox"/> 02 Nerd	<input type="checkbox"/> 02 Calm	<input type="checkbox"/> 02 Quiet
<input type="checkbox"/> 03 Short	<input type="checkbox"/> 03 Wavy/curly	<input type="checkbox"/> 03 Unshaven	<input type="checkbox"/> 03 Light	<input type="checkbox"/> 03 Casual	<input type="checkbox"/> 03 Polite	<input type="checkbox"/> 03 Slow
<input type="checkbox"/> 04 Collar	<input type="checkbox"/> 04 Mohawk	<input type="checkbox"/> 04 Lutz	<input type="checkbox"/> 04 Medium	<input type="checkbox"/> 04 Dirty	<input type="checkbox"/> 04 Cooperative	<input type="checkbox"/> 04 Normal
<input type="checkbox"/> 05 Shoulder	<input type="checkbox"/> 05 Bushy	<input type="checkbox"/> 05 Mustache	<input type="checkbox"/> 05 Dark	<input type="checkbox"/> 05 Dirty	<input type="checkbox"/> 05 Aggressive	<input type="checkbox"/> 05 Rapid
<input type="checkbox"/> 06 Long	<input type="checkbox"/> 06 Crew cut	<input type="checkbox"/> 06 Beard	<input type="checkbox"/> 06 Ruddy	<input type="checkbox"/> 06 Drugged	<input type="checkbox"/> 06 Nervous	<input type="checkbox"/> 06 Foreign Accent
<input type="checkbox"/> 07 Unknown	<input type="checkbox"/> 07 Curly	<input type="checkbox"/> 07 Beard/mustache	<input type="checkbox"/> 07 Tanned	<input type="checkbox"/> 07 Unusual	<input type="checkbox"/> 07 Violent	<input type="checkbox"/> 07 Slurred
<input type="checkbox"/> 08 Curly	<input type="checkbox"/> 08 Pony tail	<input type="checkbox"/> 08 Other	<input type="checkbox"/> 08 Acne	<input type="checkbox"/> 08 Other	<input type="checkbox"/> 08 Under the Influence	<input type="checkbox"/> 08 Muffled/Slurred
<input type="checkbox"/> 09 Fine	<input type="checkbox"/> 09 Processed		<input type="checkbox"/> 09 Pocked	<input type="checkbox"/> 09 Unknown	<input type="checkbox"/> 09 Impoverished	<input type="checkbox"/> 09 Other
<input type="checkbox"/> 10 Thick	<input type="checkbox"/> 10 Wig/coverup		<input type="checkbox"/> 10 Freckled	<input type="checkbox"/> 10 Right hand	<input type="checkbox"/> 10 Left hand	<input type="checkbox"/> 10 Other
<input type="checkbox"/> 11 Thinning	<input type="checkbox"/> 11 Receding		<input type="checkbox"/> 11 Other	<input type="checkbox"/> 11 Amblyopias	<input type="checkbox"/> 11 Other	
<input type="checkbox"/> 12 Wavy	<input type="checkbox"/> 12 Other					
<input type="checkbox"/> 13 Other						

Place of Birth City _____ State _____ Calculate Notified Y N Arrestor Address Street & Number _____ Apt. # _____

City _____ State/Zip _____ Phone _____ Employer _____ Occupation _____

Employer Address Street & Number _____ City _____ State/Zip _____ Phone _____

Emergency Contact Name _____ Relationship _____ Phone _____

Address _____ City _____ State/Zip _____

Arrest Location & City _____ Arrest Date _____ Arrest Time _____ Arrest Pinks Taken? YES NO Court _____

Assessing Agency & Officer _____ ID# _____ Transporting Agency & Officer _____ ID# _____

Vehicle Location	180 Lic. #	State	Year	Make	Model	Style	Color
Type	CHARGES(S) (include number of counts)	COURT	WARRANT #	RESP. AGENCY	WRT BAIL		
F							
M							
F							
M							
F							
M							
F							
M							
F							
M							
F							
M							
F							
M							

MISDEMEANOR INCARCERATION (To be completed upon a physical arrest for any misdemeanor, pursuant to Penal Code Sec. 253.6.)

1. The person arrested was so intoxicated that he could have been a danger to himself or others.

2. The person arrested required medical examination or medical care or was otherwise unable to care for his own safety.

3. The person was arrested for one or more of the offenses listed in Section 40202 of the Vehicle Code.

4. There were one or more outstanding arrest warrants for the person.

5. The person could not provide satisfactory evidence of personal identification.

6. The prosecution of the offense or offenses for which the person was arrested or for the prosecution of any other offense or offenses would be jeopardized by immediate release of the person arrested.

7. There was reasonable likelihood that the offense or offenses would continue or resume or that the safety of persons or property would be imminently endangered by the release of the arrested person.

8. The person arrested deserved to be taken before a magistrate or released to sign the notice to appear.

9. There is reason to believe that the person would not appear. Specify _____

4

ARRESTING OFFICER COPY

CO-05 Sheriff 41 10/05

Tracy Police Department Inmate Screening Report

1
2 A custom report is not necessary to obtain the needed output for the Inmate Screening Report.
3 The following process will be used to produce the needed results.
4 On the Non-Custody Booking Screen there are a series of tabs that will allow the Customer to
5 track Arrest Information, Arrest Narrative, Arrest Circumstances, Charges, and Additional
6 Booking Information. On the "Booking Additional Info" tab a template will be created to track
7 the Inmate Screening Report information. An officer of the Customer will be able to click on
8 this tab, choose the template, and all the associated questions will appear in a template allowing
9 the officer to key the information onto the template form. Upon saving this information, the
10 information entered will then be stored indefinitely in the Spillman RMS and can then be
11 printed directly from the "Booking Additional Info" tab.

ARIES

Description/Purpose

ARIES is a program used by Law Enforcement Personnel to query several remote databases including but not limited to most active RMS Systems in San Joaquin County. Spillman can display the ARIES Web Page within the Mobile Client for easy access; however, Spillman Mobile cannot initiate queries into ARIES. Spillman will allow ARIES an ODBC connection to the Spillman Database so that other Law Enforcement Personnel from other agencies in the county can query Spillman through the ARIES Web Portal.

Requirements

- Connection – ARIES will connect to Spillman using ODBC/JDBC.
- Format – ARIES will send query requests to Spillman using SQL through the Spillman ODBC Connection.
- Assumptions –It is assumed that there will be no custom development from Spillman. The work of the connection and query formatting will be entirely on the ARIES Development Staff. Spillman will provide assistance as needed on database schema and data elements.
- Data Transmitted – ARIES will send queries to the Spillman database as it would relate to names, property and vehicles and the incidents associated with them.
- Version – Spillman Sentryx 6.1 +

Recommended Process

A user, Customer Spillman User or other user of the ARIES System, enters information to be queried into the ARIES query form page, not Spillman, and pushes submit or query. The ARIES System connects to Spillman's ODBC Connection as well as other RMS systems in the county and submits an SQL query. Information found for the query is returned to the ARIES Web Portal for view by the requesting user. Again, this is not an application that is embedded or integrated into the Spillman system; this is a separate product that queries the Spillman database independently.

Deliverables

- Spillman ODBC/JDBC Interface Access – Spillman will provide ODBC/JDBC Interface connection, including connection information and the current ODBC/JDBC Driver to gain access to the Spillman Database.
- Testing – Spillman will give assistance to the ARIES technicians making the connection and querying the Spillman System. The extent of the assistance will include help with database schema and query composition to troubleshooting connection to the Spillman database.

- 1 Support Services –After ARIES has completed the interface, Spillman Support will continue to
- 2 be available to troubleshoot and address issues that arise with the ODBC/JDBC connection
- 3 according to standard Spillman Support Contracts. Agreement (Exhibit G).

Attachment 1 (Optional Interfaces)

1
2
3
4
5

Attachment 1 to Exhibit B contains those interfaces or custom developments listed in Section 6: Options in Exhibit H, Pricing Summary and Detail. Items listed in Attachment 1 may be added to the project during Phase I, Project Planning as described in Exhibit A, Statement of Work.

DataWorks Interface

The optional Data Works interface may need further clarification, revisions, and specification changes. Before a Change Order can be issued the interface specifications must be approved by Data Works, San Joaquin County, Tracy Police Department, and Spillman Technologies deeming the interface technically feasible and financially reasonable. Exhibit H, Pricing Summary and Detail includes a not to exceed price for the Data Works Interface.

An alternative option to the Data Works interface is an interface to CalPhoto. This option also has a not to exceed price as listed in Exhibit H, Pricing Summary and Detail. Specifications have not been developed for this interface, however it is understood that the functionality would be similar to that listed here for the DataWorks interface. Further research, clarification, and specifications need to be defined. The interface must be technical feasibility and financially reasonable; approval of this interface will be required by CalPhoto, Tracy Police Department and Spillman Technologies.

Description/Purpose

DataWorks is Imaging Capture software used for booking inmates and capturing booking photos. Spillman Message Center will be used to query the DataWorks database to retrieve booking images and demographic information. DataWorks requires either a booking ID or a unique name ID from the RMS system that matches the same identifier in the DataWorks system in order to uniquely identify the individual in the query. Therefore, only names that exist in the Spillman database with one of these unique identifies will be able to return photo results.

Requirements

- Connection – DataWorks utilizes an SQL ODBC Connection, which Spillman will connect to.
- Format – Spillman will use SQL to send queries to the DataWorks system.
- Data Transmitted – Booking Image and inmate demographic information. Only one image can be displayed in Spillman Message Center.
- Data Returned – The data returned from a name query will only display one image. If there are multiple images found from the query request, the first in the set will be displayed. The other data returned will be limited to demographic identification information stored in DataWorks. .
- Version – Spillman Sentryx 6.1 +

Recommended Process

Patrol - The officer will enter name information into Spillman Mobile Search Forms. There will be a checkbox on the screen labeled DataWorks and another one labeled Local, for local database, both need to be checked. The search will start by searching the local Spillman Database for the name and date of birth which was filled out in the search form. The local return will show a list of possible matches. The user selects the correct person which is

1 hyperlinked. When selected, the booking number is retrieved from the Spillman System and
2 sent with the query to DataWorks. If the name is found in the DataWorks System, the
3 demographic information and the photo will be returned in a viewable form in Spillman's
4 Message Center.

5 **Dispatch** - The dispatcher will enter name information into the Spillman CAD Command Line.
6 The search will automatically run a CLETS DQ, QW, and Local queries. The local return will
7 show a list of possible matches. The user selects the correct person which is hyperlinked. When
8 selected, the booking number is retrieved from the Spillman System and sent with the query to
9 DataWorks. If the name is found in the DataWorks System, the demographic information and
10 the photo will be returned in a viewable form in Spillman's Message Center.

11 **Note:** Spillman will not be storing any information in the Spillman Imaging System or Spillman
12 Database. This is a view only interface. Photos will be available on any device that initiated the
13 query whether it is a workstation, MDC, laptop or handheld device that is utilizing the
14 Spillman Message Center.

15 **Deliverables**

- 16 • Interface Software – DataWorks Interface as described in the requirements section.
- 17 • Installation Services – Spillman will install the DataWorks Interface and have it
18 performing as described in the Interface requirements.
- 19 • Testing – After installation, Spillman will test and monitor the interface for a period of
20 time fixing any Defects and adjusting any configurations to ensure the interface is
21 running according to requirements.
- 22 • Support Services – After Final System Acceptance, Spillman Support will take calls if
23 issues arise with the interface according to Spillman's Maintenance and Support
24 Agreement (Exhibit G).

San Joaquin County Booking/Arrest Report II

Description

The San Joaquin County Jail Booking Form is used to present Inmate information to the County Jail upon admission to those facilities. It contains demographic and descriptive information about the inmate, as well as a list of charges and officer comments.

Requirements

- The exact form must be followed as presented.
- Information that exists in the Spillman system will populate the respective fields. (marked in Green on Fig. 1 and 2)
- Translations from Spillman coded fields to San Joaquin coded fields will be provided by Tracy Police Department. (marked in Blue on Fig. 1 and 2)
- Fields requesting information that is not contained in the Spillman system will remain blank. (marked in Red on Fig. 1 and 2)

Recommended Process

At the time of Booking an inmate will be entered into the Spillman system at Tracy Police Department. Demographic and Arrest information will be stored as part of the normal Booking procedure. After this booking is completed the User will run the San Joaquin Arrest Form report. They will print the form using standard procedure to either a paper copy or a PDF. Spillman will provide a method that will enable the user to complete the form on screen before printing the form in preparation for inmate transport.

Tracy Police Department Inmate Screening Report

1
2 A custom report is not necessary to obtain the needed output for the Inmate Screening Report.
3 The following process will be used to produce the needed results.
4 On the Non-Custody Booking Screen there are a series of tabs that will allow the Customer to
5 track Arrest Information, Arrest Narrative, Arrest Circumstances, Charges, and Additional
6 Booking Information. On the "Booking Additional Info" tab a template will be created to track
7 the Inmate Screening Report information. An officer of the Customer will be able to click on
8 this tab, choose the template, and all the associated questions will appear in a template allowing
9 the officer to key the information onto the template form. Upon saving this information, the
10 information entered will then be stored indefinitely in the Spillman RMS and can then be
11 printed directly from the "Booking Additional Info" tab.

1
2

INSIGHT JXML QUERY SDK



Spillman Technologies, Inc.
InSight™ JXML Query SDK

Table of Contents

1
2
3
4
5
6
7
8
9
10
11
12

Web Service Internals.....	66
Request XML.....	66
Query Types.....	66
Required Namespaces.....	66
JXDM Schemas.....	67
Samples.....	68
Response XML.....	68
Required Namespaces.....	68
InSight Schemas.....	69
Samples.....	77

InSight™ 3rd Party Web Service

Web Service Internals

The InSight™ 3rd party web service is quite simple in structure. It contains one port service called query which takes one string input and returns a string as follows:

- string query(string xmlRequest)

The request string (xmlRequest) is an input string in the form of an XML document which contains information on what is being queried by the InSight™ client using the Justice XML Data Model (JXDM) schema standards. The returned string is also an XML document using the InSight™ transport system and the JXDM schema standards.

WSDL

Request XML

The InSight™ transport XML document contains the following elements:

```
<?xml version="1.0" encoding="UTF-8"?>
<insight:Request type="summary|detail"
    xmlns:insight="http://www.spillman.com/InSight/2.0/jxdm"
    xmlns:jxdm="http://www.it.ojp.gov/jxdm/3.0.3">
.
.
. [Contains a single JXDM Person, Property, Vehicle, or Booking]
.
.
</insight:Request>
```

Query Types

Type	Description
detail	Response should include record details
summary	Response should only include summary information

Required Namespaces

Namespace	Description
http://www.spillman.com/InSight/2.0/jxdm	InSight™ 2.0 namespace
http://www.it.ojp.gov/jxdm/3.0.3	Justice XML Data Model namespace

JXDM Schemas

XML Attribute/Tag	Notes
Namespace: jxdm=http://www.it.ojp.gov/jxdm/3.0.3	
XML Schema: jxdm:Booking	
@sourceIDText	Unique ID for the requested record

XML Attribute/Tag Namespace: jxdm=http://www.it.ojp.gov/jxdm/3.0.3	Notes
	provided by the data provider.
XML Schema: jxdm:Person	
@sourceIDText	Unique ID for the requested record provided by the data provider.
jxdm:PersonName	
jxdm:PersonSurName	
jxdm:PersonGivenName	
jxdm:PersonMiddleName	
jxdm:PersonAssignedIDDetails	
jxdm:PersonDriverLicenseID	
jxdm:ID	
jxdm:PersonBirthDate	Formatted as CCYY-MM-DD
jxdm:PersonPhysicalDetails	
jxdm:PersonSexCode	M=Male, F=Female, U=Unknown
jxdm:Residence	
jxdm:LocationAddress	
jxdm:LocationStateCode.USPostalService	2 character State code
XML Schema: jxdm:Property	
@sourceIDText	Unique ID for the requested record provided by the data provider.
jxdm:PropertyAssignedIDDetails	
jxdm:PropertySerialID	
jxdm:ID	
jxdm:PropertyPhysicalDetails	
jxdm:PropertyBrandName	
jxdm:PropertyModelName	
jxdm:PropertyTypeText	
XML Schema: jxdm:Vehicle	
@sourceIDText	Unique ID for the requested record provided by the data provider.
jxdm:VehicleID	
jxdm:ID	VIN
jxdm:VehicleLicensePlateID	
jxdm:ID	
jxdm:IDJurisdictionCode	License State

1 Samples

Booking Detail	Person Detail	Property Detail	Vehicle Detail
	Person Summary	Property Summary	Vehicle Summary

1 **Response XML**

2 The InSight™ transport XML document contains the following elements:

```
3  
4 <?xml version="1.0" encoding="UTF-8"?>  
5 <insight:Response type="summary|detail"  
6         xmlns:insight="http://www.spillman.com/InSight/2.0/jxdm"  
7         xmlns:jxdm="http://www.it.ojp.gov/jxdm/3.0.3">  
8     .  
9     .  
10    . [Contains one or more InSight™ Subject, Property, Vehicle, or Booking objects]  
11    .  
12    .  
13 </insight: Response>
```

14 If no records are found for the query then return an empty response:

```
15  
16  
17 <?xml version="1.0" encoding="UTF-8"?>  
18 <insight:Response type="summary|detail"  
19         xmlns:insight="http://www.spillman.com/InSight/2.0/jxdm"  
20         xmlns:jxdm="http://www.it.ojp.gov/jxdm/3.0.3">  
21 </insight: Response>
```

22
23 Use the normal web service error reporting system to notify error conditions (i.e. throw an
24 exception with the error description specified).

25 **Required Namespaces**

Namespace	Description
http://www.spillman.com/InSight/2.0/jxdm	InSight™ 2.0 namespace
http://www.it.ojp.gov/jxdm/3.0.3	Justice XML Data Model namespace

26

1 InSight™ Schemas

XML Attribute/Tag		Notes
Namespaces: insight=http://www.spillman.com/InSight/2.0/jxdm jxdm=http://www.it.ojp.gov/jxdm/3.0.3		
XML Schema: insight:Booking		
Type Hierarchy: {http://www.it.ojp.gov/jxdm/3.0.3}SuperType (by extension) └─{http://www.it.ojp.gov/jxdm/3.0.3}ActivityType (by extension) └─┬─{http://www.it.ojp.gov/jxdm/3.0.3}BookingType (by extension) └─┬─ {http://www.spillman.com/InSight/2.0/jxdm}Booking		
Detail		
@sourceIDText		A string set by the data provider so that info that is sent can be retraced back to its source, e.g. a record ID.
insight:Relationship		See insight:Relationship
jxdm:ActivityStatus		
jxdm:StatusText		Value must be "Non Custody", "Closed", "Active", or "Inactive"
jxdm:Arrest		
jxdm:ActivityDate		Type is date (CCYY-MM-DD)
jxdm:ActivityTime		Type is time (hh:mm:ss)
jxdm:ActivityTypeText		Arrest type
jxdm:ArrestAgency		
jxdm:OrganizationName		Arresting agency
jxdm:ArrestCharge		
jxdm:ActivityDate		Type is date (CCYY-MM-DD)
jxdm:ActivityTime		Type is time (hh:mm:ss)
jxdm:ActivityTypeText		Charge/offense type
jxdm:ChargeClassification		
jxdm:ChargeDegreeText		e.g. first degree, second degree
jxdm:ChargeSeverityText		e.g. felony, misdemeanor
jxdm:ChargeDispostion		
jxdm:ChargeDispositionDate		Type is date (CCYY-MM-DD)
jxdm:ChargeDispositionDescriptionText		
jxdm:ChargeReporting		
jxdm:ChargeNCICCode		Must conform to NCIC standards
jxdm:ChargeSentence		
jxdm:SentenceIssuer.Person		

jxdm:PersonName	
jxdm:PersonFullName	Judge
jxdm:ChargeStatus	
jxdm:StatusText	Judicial status of charge
jxdm:ChargeStatute	
jxdm:StatuteText	
jxdm:StatuteJurisdiction	
jxdm:JurisdictionText	
jxdm:ChargeText	
jxdm:ArrestIntoxicantInvolvedIndicator	Type is Boolean (true or false)
jxdm:ArrestLocation	
jxdm:LocationName	
jxdm:LocationArea	
jxdm:AreaGeographicCodeText	Arrest area
jxdm:ArrestOfficial	
jxdm:PersonName	
jxdm:PersonFullName	Arresting officer
jxdm:ArrestSequenceID	
jxdm:ID	
jxdm:BookingSubject	See insight:Subject
XML Schema: insight:Relationship	
Type Hierarchy:	
{http://www.it.ojp.gov/jxdm/3.0.3}SuperType (by extension)	
└ {http://www.spillman.com/InSight/2.0/jxdm}Relationship (new type)	
insight:RelatedTo.Booking ²	jxdm:BookingType
@sourceIDText ¹	A string set by the data provider so that info that is sent can be retraced back to its source, e.g. a record ID.
jxdm:Arrest	
jxdm:ArrestCharge	
jxdm:ChargeStatute	
jxdm:StatuteText	Statute for the main charge
insight:RelatedTo.Other ²	
insight:RelationshipDescription	
insight:RelatedTo.Person ²	jxdm:PersonType
@sourceIDText ¹	A string set by the data provider so that info that is sent can be retraced back to its source, e.g. a record ID.

jxdm:PersonName	
jxdm:PersonFullName	
insight:RelatedTo.Property ²	jxdm:PropertyType
@sourceIDText ¹	A string set by the data provider so that info that is sent can be retraced back to its source, e.g. a record ID.
jxdm:PropertyPhysicalDetails	
jxdm:PropertyBrandName	
jxdm:PropertyColorDescriptionText	
jxdm:PropertyModelName	
jxdm:PropertyTypeText	
jxdm:PropertyValueDetails	
jxdm:PropertyCurrentResaleValue	
jxdm:PropertyValueAmount	Type is decimal
insight:RelatedTo.Vehicle ²	jxdm:VehicleType
@sourceIDText ¹	A string set by the data provider so that info that is sent can be retraced back to its source, e.g. a record ID.
jxdm:PropertyPhysicalDetails	
jxdm:PropertyMakeName	
jxdm:PropertyModelName	
jxdm:PropertyYearDate	Type is year (CCYY)
jxdm:VehicleColorPrimaryText	
jxdm:VehicleColorSecondaryText	
jxdm:VehicleLicensePlateID	
jxdm:IDJurisdictionCode	2 character state code
insight:RelationshipDate	Type is date (CCYY-MM-DD)
insight:RelationshipName	
insight:RelationshipWarning	Type is Boolean (true or false)
XML Schema: insight:Property	
Type Hierarchy:	
<pre> {http://www.it.ojp.gov/jxdm/3.0.3}SuperType (by extension) ├── {http://www.it.ojp.gov/jxdm/3.0.3}PropertyType (by extension) │ └── {http://www.spillman.com/InSight/2.0/jxdm}Property </pre>	
Summary	
@sourceIDText ¹	A string set by the data provider so that info that is sent can be retraced back to its source, e.g. a record ID.

insight:PropertyResponsibility.Organization	jxdm:OrganizationType
jxdm:OrganizationName	Responsible agency
insight:PropertyResponsibility.Person	jxdm:PersonType
jxdm:PersonName	
jxdm:PersonFullName	Responsible officer
jxdm:PropertyPhysicalDetails	
jxdm:PropertyBrandName	
jxdm:PropertyModelName	
jxdm:PropertyYearDate	Type is year (CCYY)
jxdm:PropertyTypeText	
Detail	
@sourceIDText	A string set by the data provider so that info that is sent can be retraced back to its source, e.g. a record ID.
insight:PropertyResponsibility.Organization	jxdm:OrganizationType
jxdm:OrganizationName	Responsible agency
insight:PropertyResponsibility.Person	jxdm:PersonType
jxdm:PersonName	
jxdm:PersonFullName	Responsible officer
insight:Relationship	See insight:Relationship
jxdm:PropertyAssignedIDDetails	
jxdm:PropertyOwnerAppliedID	
jxdm:ID	
jxdm:PropertySerialID	
jxdm:ID	
jxdm:PropertyHolding	
jxdm:ActivityEndDate	Date property was released Type is date (CCYY-MM-DD)
jxdm:ActivityItemObtainer	
jxdm:PersonName	
jxdm:PersonFullName	Person property was released to
jxdm:ActivityReleaser	
jxdm:PersonName	
jxdm:PersonFullName	Person releasing the property
jxdm:PropertyLocation	
jxdm:LocationName	
jxdm:LocationTypeText	Value must be "storage" or "tag"
jxdm:PropertyPhysicalDetails	
jxdm:PropertyBrandName	
jxdm:PropertyColorDescriptionText	
jxdm:PropertyModelName	

jxdm:PropertyYearDate	Type is year (CCYY)
jxdm:PropertyStatus	
jxdm:StatusDate	Type is date (CCYY-MM-DD)
jxdm:StatusText	Local status
jxdm:PropertySeizer.Organization	
jxdm:OrganizationName	Associated agency
jxdm:PropertySeizer.Person	
jxdm:PersonName	
jxdm:PersonFullName	Associated officer
jxdm:PropertyTypeText	
jxdm:PropertyValueDetails	
jxdm:PropertyCurrentResaleValue	
jxdm:PropertyValueAmount	Type is decimal
jxdm:PropertyRecoveredValue	
jxdm:PropertyValueAmount	Type is decimal
jxdm:PropertyValueDate	Type is date (CCYY-MM-DD)
XML Schema: insight:Subject	
Type Hierarchy:	
{http://www.it.ojp.gov/jxdm/3.0.3}SuperType (by extension)	
└ {http://www.it.ojp.gov/jxdm/3.0.3}PersonType (by extension)	
└ {http://www.it.ojp.gov/jxdm/3.0.3}SubjectType (by extension)	
└ {http://www.spillman.com/InSight/2.0/jxdm}Subject	
Summary	
@sourceIDText ¹	A string set by the data provider so that info that is sent can be retraced back to its source, e.g. a record ID.
jxdm:PersonBirthDate	Type is date (CCYY-MM-DD)
jxdm:PersonName	
jxdm:PersonGivenName	
jxdm:PersonMiddleName	
jxdm:PersonSurName	
jxdm:Residence	
jxdm:LocationAddress	
jxdm:LocationStreet	
jxdm:StreetFullText	
jxdm:LocationCityName	
jxdm:LocationStateCode.USPostalService	
Detail	
@sourceIDText	A string set by the data provider

	so that info that is sent can be retraced back to its source, e.g. a record ID.
insight:Relationship	See insight:Relationship
jxdm:PersonAssignedIDDetails	
jxdm:PersonDriverLicenseID	
jxdm:ID	
jxdm:IDJurisdictionCode	Driver License State
jxdm:PersonFBIID	
jxdm:ID	
jxdm:PersonSSNID	
jxdm:ID	
jxdm:PersonStateID	
jxdm:ID	
jxdm:PersonBiometricDetails	
jxdm:PersonDigitalImage	
jxdm:BinaryFormatTypeText	Value must be "MIME"
jxdm:BinaryFormatText	Value must be "image/jpeg"
jxdm:BinaryObject.Base64	Base64 encoded image
jxdm:PersonBirthDate	Type is date (CCYY-MM-DD)
jxdm:PersonName	
jxdm:PersonGivenName	
jxdm:PersonMiddleName	
jxdm:PersonSurName	
jxdm:PersonPhysicalDetails	
jxdm:PersonBuildText	
jxdm:PersonComplexionText	
jxdm:PersonDental	
jxdm:PersonDentalCharacteristicText	
jxdm:PersonEyeColorText	
jxdm:PersonEyewearDescriptionText	
jxdm:PersonHairColorText	
jxdm:PersonHairFacialText	
jxdm:PersonHairStyleText	
jxdm:PersonHeightMeasure	
jxdm:PersonRaceText	
jxdm:PersonSexText	
jxdm:PersonSpeechDescriptionText	
jxdm:PersonWeightMeasure	
jxdm:PersonSocialDetails	
jxdm:PersonEthnicityText	

jxdm:PersonWorkContact	
jxdm:ContactTelephoneNumber	
jxdm:TelephoneNumberFullID	
jxdm:PrimaryContactInformation	
jxdm:ContactTelephoneNumber	
jxdm:TelephoneNumberFullID	
jxdm:Residence	
jxdm:LocationAddress	
jxdm:LocationStreet	
jxdm:StreetFullText	
jxdm:LocationCityName	
jxdm:LocationStateCode.USPostalService	
jxdm:LocationPostalCodeID	
jxdm:ID	
jxdm:SubjectCautionInformationCaveat	Alerts
XML Schema: insight:Vehicle	
Type Hierarchy:	
<pre> {http://www.it.ojp.gov/jxdm/3.0.3}SuperType (by extension) ├── {http://www.it.ojp.gov/jxdm/3.0.3}PropertyType (by extension) │ ├── {http://www.it.ojp.gov/jxdm/3.0.3}VehicleBasicsType (by extension) │ │ ├── {http://www.it.ojp.gov/jxdm/3.0.3}VehicleBasicsType (by extension) │ │ └── {http://www.spillman.com/InSight/2.0/jxdm}Vehicle </pre>	
Summary	
@sourceIDText ¹	A string set by the data provider so that info that is sent can be retraced back to its source, e.g. a record ID.
jxdm:PropertyPhysicalDetails	
jxdm:PropertyMakeName	
jxdm:PropertyModelName	
jxdm:PropertyYearDate	Type is year (CCYY)
jxdm:VehicleColorPrimaryText	
jxdm:VehicleColorSecondaryText	
jxdm:VehicleDoorQuantity	Type is positive integer
jxdm:VehicleLicensePlateID	
jxdm:ID	
jxdm:IDJurisdictionCode	2 character state code
Detail	
@sourceIDText	A string set by the data provider so that info that is sent can be

	retraced back to its source, e.g. a record ID.
insight:PropertyResponsibility.Organization	jxdm:OrganizationType
jxdm:OrganizationName	Responsible agency
insight:PropertyResponsibility.Person	jxdm:PersonType
jxdm:PersonName	
jxdm:PersonFullName	Responsible officer
insight:Relationship	See insight:Relationship
jxdm:PropertyHolding	
jxdm:ActivityEndDate	Date property was released Type is date (CCYY-MM-DD)
jxdm:PropertyLocation	
jxdm:LocationName	
jxdm:LocationTypeText	Value must be "storage"
jxdm:PropertyPhysicalDetails	
jxdm:PropertyMakeName	
jxdm:PropertyModelName	
jxdm:PropertyYearDate	Type is year (CCYY)
jxdm:PropertyTypeText	Vehicle type
jxdm:PropertyValueDetails	
jxdm:PropertyCurrentResaleValue	
jxdm:PropertyValueAmount	Type is decimal
jxdm:PropertyRecoveredValue	
jxdm:PropertyValueAmount	Type is decimal
jxdm:PropertyValueDate	Type is date (CCYY-MM-DD)
jxdm:VehicleColorPrimaryText	
jxdm:VehicleColorSecondaryText	
jxdm:VehicleDoorQuantity	Type is positive integer
jxdm:VehicleID	
jxdm:ID	VIN
jxdm:VehicleLicensePlateID	
jxdm:ID	
jxdm:IDExpirationDate	Type is date (CCYY-MM-DD)
jxdm:IDJurisdictionCode	2 character state code
jxdm:IDTypeText	License plate type
jxdm:VehicleTower	
jxdm:OrganizationName	

1 ¹ Required

2 ² Only one object allowed

3 [Samples](#)

Booking Detail

Person Detail

Property Detail

Vehicle Detail

Exhibit C: Performance and Reliability Standards

Table of Contents

1.	Overview	3
2.	Performance Standards	3
2.1	Performance Standards Assumptions and Exceptions.....	3
2.2	Measurement of Transaction Response Times.....	4
2.3	Spillman CAD Performance Standards.....	4
2.4	Spillman Mobile Performance Standards.....	5
2.5	Spillman RMS Performance Standards.....	6
2.6	Spillman AFR Performance Standards.....	7
3.	System Reliability.....	8

1. Overview

Spillman commits to providing a System that meets all requirements of the Agreement including the agreed-upon specifications as contained in the Documentation, the Interface Descriptions (Exhibit B), and Spillman's acceptance test documents (the "Product Specifications") through Final System Acceptance, after which the Customer is covered under the terms and conditions of the Maintenance and Support Agreement (Exhibit G).

This Document outlines the performance and reliability standards for the System (as defined in Exhibit A) and each Subsystem. "Subsystem" means the primary subsystems of the System as defined by the Professional Services and Software License Agreement (the "Agreement").

In the event of a conflict between the terms and conditions of this Exhibit C and the Agreement to which it is attached, the terms and conditions of the Agreement shall apply.

2. Performance Standards

Subject to the terms and conditions in the Agreement, Spillman will ensure that during the Project the System meets the performance standards stated herein in all material respects. The System must materially meet the performance standards when the Subsystems are working together in an integrated environment.

2.1 Performance Standards Assumptions and Exceptions

All performance standards are based on the following assumptions:

- The Spillman Software is configured and maintained according to Spillman recommendations for servers, workstations, system and application configuration, as well as for database maintenance
- The workstations used to access the Software meet the recommended Spillman workstation specifications
- The servers housing the Spillman Software meet the recommended Spillman server specifications
- A maximum average round-trip latency (as measured by "ping") of 10ms between client workstations and the Spillman server
- Network noise, throughput drop-offs, network activity spikes and third party applications operating on the workstation clients, all of which will directly influence the response times of the Spillman Software

- 1 • Anti-virus scanning software configuration, client registry errors, firewalls, and
2 spyware may affect performance
 - 3 • Network and system diagnostic testing may affect performance
 - 4 • Functions requiring responses from external data sources, such as queries to external
5 systems, which may take longer based on the responsiveness of the external system
6 and the network
-

7 2.2 Measurement of Transaction Response Times

8 Transaction response times are measured from operator action until visual response or
9 operation completion.

10 2.3 Spillman CAD Performance Standards

11 The CAD performance standards are based on the general assumptions and exceptions and
12 the following additional assumptions:

- 13 • CAD client workstation to the Spillman Server must maintain a constant connection
14 speed of 100Mbps for optimum performance, since response time for query
15 transactions, searches and canned reports will depend greatly on the network
16 connection speeds

17 Subject to the Customer meeting the CAD performance assumptions, Spillman commits to
18 the following response times during the Project:

- 19 • An average of less than 1 second for the following Dispatcher commands:
 - 20 - Unit Status Update
 - 21 - Dispatch Unit
 - 22 - Call Comment
 - 23 - Update Call Status
 - 24 - Close Call
- 25 • An average of less than 3 seconds for the following Dispatcher commands:
 - 26 - Geoverify Address (from Add Call screen)
 - 27 - Initiate New Call (open Add Call screen, no address)
 - 28 - Call History (Incident History)
 - 29 - Unit History

- 1 • From the Add Call Screen or the Call Information screen, less than 5 seconds for the
- 2 following amplifying information
- 3 - Previous calls at address
- 4 - Duplicate calls at address
- 5 - Names at address
- 6 - Names with alerts at address
- 7 - Warrants at address
- 8 - Premise records at address
- 9 - Address alerts

10 Many factors can influence response time, including network latency, complexity of the map
11 display, and interaction with external systems and data volumes retained on the production
12 database servers.

13 The majority of the CAD application commands will meet the criteria stated above.
14 However, commands requiring responses from external data sources, such as queries to
15 external systems, may take longer based on the responsiveness of the external system and
16 the network.

17 With regard to external database queries, the System will meet the performance
18 requirement in most cases. However, due to factors such as network latency and external
19 system responsiveness, it is not possible to commit to the response time for all ad hoc
20 external database query requests. Notwithstanding this provision, Spillman will resolve, in
21 accordance with the requirements of the Agreement, problems or Defects caused by
22 Products and/or Services provided by Spillman that interfere with or impede the System's
23 ability to achieve the performance standards as stated herein.

24 Please note that Spillman cannot guarantee response times when the transaction depends
25 on the performance of the network, system load and any external systems (e.g., queries to
26 state databases) outside the responsibilities of Spillman as defined by the Agreement.

27 2.4 Spillman Mobile Performance Standards

28 The Mobile performance standards are based on the general assumptions and exceptions
29 and the following additional assumptions:

- 30 • Either a commercial or managed IP-based wireless network with average data rates
31 of 256 Kbs between the Spillman Mobile client and the Spillman server

- 1 • Acceptable performance for mobile transactions shall be defined as achieving two-
2 way (query and response) transactions on a channel without congestion (i.e., no
3 delay for channel access due to traffic contention)

4 Subject to the Customer meeting the Mobile performance assumptions, Spillman commits
5 to the following response times during the Project:

- 6 • The frequency of dispatch updates is configurable. The default configuration is set to
7 15 seconds, thus the maximum time between dispatch updates is less than 30
8 seconds.
- 9 • Query response times are directly related to network latency and bandwidth. Under
10 optimal conditions indexed query responses, unit history and call history lookups,
11 and message transactions are less than 7 seconds

12 Note that the Mobile response time does not apply to the following:

- 13 • Records with images or attachments, such as mug shots
- 14 • Queries to external systems
- 15 • Functions that are size and complexity dependent (i.e., report generation)

16 2.5 Spillman RMS Performance Standards

17 The Spillman RMS performance standards are based on the general assumptions and
18 exceptions and the following additional assumptions:

- 19 • RMS client workstation to the Spillman Server must maintain a constant connection
20 speed of 100 Mbps for optimum performance, since response time for query
21 transactions, searches and canned reports will depend greatly on the network
22 connection speeds

23 Subject to the above-noted assumptions and exceptions, Spillman commits to the following
24 performance standards during the Project:

- 25 • Basic Query (Indexed Search) and Select Response Times
 - 26 – With the exception of large reports or database searches that cover a time span
27 of a week or more and excluding network communication times and other
28 delays beyond the Licensed Software control, the RMS system will complete
29 the majority of activities with a transaction Response Time of 3 seconds or less.
 - 30 – Data entry operations (i.e., manual entry of information into data entry fields)
31 and option selections (e.g., selecting one or more alternatives from drop down
32 menu, with a pointing device or keyboard command) are completed with an
33 average response time of 1 second or less.

- 1 • Extended Records Query (Non-indexed Search)
 - 2 – The Spillman RMS allows searching on un-indexed fields. The response time
 - 3 for un-indexed searches varies greatly and depends on the amount of data
 - 4 stored in the database, the search criteria, and the position of the matching
 - 5 records in the table. An exact response time cannot be guaranteed, but the
 - 6 Spillman RMS will search approximately 1,000 records in less than 7 seconds.
 - 7 • Name Query With List Response
 - 8 – When configured to show a list response the Spillman RMS will complete a
 - 9 names search in less than 7 seconds
-

10 2.6 **Spillman AFR Performance Standards**

11 The AFR performance standards are based on the general assumptions and exceptions and
12 the following additional assumptions:

- 13 • Either a commercial or managed IP-based wireless network with average data rates
- 14 of 256 kbit/s between the Spillman AFR client and the Spillman server
- 15 • Acceptable performance for AFR transactions shall be defined as achieving two-way
- 16 (query and response) transactions on a channel without congestion (i.e., no delay for
- 17 channel access due to traffic contention)
- 18 • These performance standards do not apply to third party AFR applications that
- 19 interface with the Spillman system
- 20 • The form load time will be very dependent upon the mobile/AFR client workstation
- 21 hardware memory and CPU specifications required by the application.

22 Subject to the above noted assumptions and exceptions, Spillman commits to the following
23 performance standards during the Project:

- 24 • AFR queries to the Spillman Server over the LAN will be completed within 7
- 25 seconds. AFR queries to the Spillman Server over-the-air (wireless network) are not
- 26 subjected to the 7-second response time due to wireless network traffic and server
- 27 response.
- 28 • Selecting drop-down menu pick-list items will be provided within 1 second. A few
- 29 large pick-list items will be provided within 7 seconds.
- 30 • Generation and display of report forms from the “New” report screen will be
- 31 provided within 30 seconds.
 - 32 – Generation and display of report forms from the “New” report screen will be
 - 33 provided within 12 seconds, with the exception of the first time the form is

1 displayed after logging into Spillman Mobile, for Mobile clients that meet or
2 exceed the following specifications,

- 3 ▪ Windows 7 (64-bit)
- 4 ▪ 250 GB hard drive
- 5 ▪ 4 GB RAM
- 6 ▪ Intel®Core 2 Duo CPU P8600 @ 2.40 GHz
- 7 • AFR Workflow, Retrieval and Submissions
- 8 – Loading of existing saved draft reports, reports from a user’s inbox and
9 submission of reports may take longer than 30 seconds. The time for
10 submitting and saving reports to the Spillman Server may also exceed 30
11 seconds. This transaction time will be contingent upon the number of included
12 data elements in a draft or completed report, any media attachments associated
13 with the form, and the number of reports a user allows to be queued in their
14 inbox.

15 **3. System Reliability**

16 Spillman commits that the System will operate in material conformity with the
17 performance standards described herein and the requirements as defined in the Agreement
18 through Final System Acceptance. Should the System, or any component thereof, fail to
19 meet these requirements, upon notice from Customer, Spillman will take appropriate steps
20 to bring the System back into compliance at no cost to the Customer by correcting the
21 problem in the manner and within the resolution time required by the Agreement.

Exhibit D: Training Plan

Table of Contents

Training Description and Approach	3
Training Requirements and Recommendations	4
Overview of Courses	5
Course Descriptions	7
Administration Course Descriptions	8
User Course Descriptions	16

Training Description and Approach

1
2
3
4
5
6
7
8
9
10
11

This training plan is designed to give an idea of what topics are covered in each of the classes and who should be in attendance at the classes. Our classes are taught with a hands-on learning environment. We like to have one or two agency personnel per computer for an ideal learning environment. The courses are taught by well qualified instructors in an instructor-led class that provides plenty on hands-on time for Customer personnel. In addition to the hands-on instructor lead classes we also have a learning management system that provides online course content with audio/video as well as pdf documentation.

At the end of every student handbook is a course/instructor evaluation. These evaluations are used to determine future course content, and are used by the customer education manager to evaluate the instructor.

1 **Training Requirements and Recommendations**

2 **Agency Administration**

3 Required Training:

4 None.

5 Recommended Training:

6 It is recommended that the agency administration, i.e., Police Chief, Deputy Chief, Lieutenant,
7 Captains, Supervisors, etc. attend the Project Team Training Course. This course is made up of
8 the following instruction: Inquiry Introduction, Data Entry, and then an overview of all the
9 modules being trained at the agency.

10 Of course it would be prudent to have Lieutenants, Captains and Supervisors attend all training
11 related to their job responsibilities so that they understand what is required of their people and
12 possibly other departments.

13 **Spillman Administrators**

14 Required Training:

15 The agency's Spillman Application Administrator(s) (SAA) should attend every course being
16 taught at least once. When building the schedule, please include the SAA(s) in at least one of
17 every course.

18 Recommended Training:

19 It is recommended that the SAAs attend a course more than once if it is being trained multiple
20 times. The agencies' SAA will be the Customer's in-house go to person (s) for the everyday user,
21 so attending as many classes as possible will only help them learn the software in greater detail.

22 **Users**

23 Required Training:

24 All users must attend the Inquiry Introduction and Data Entry course prior to attending any
25 other course. Remember that these two courses are taught as part of the Project Team Training
26 course, so anyone attending the Project Team Training course will not need to take these two
27 courses again.

28 Recommended Training:

29 The users should attend all other courses related to their job responsibilities.

Overview of Courses

2 **Courses for Spillman Application Administrators (SAA) Only**

3	Course	(Time per class)	(# of classes)
4	Project Team Training	(4 days)	1 class
5	Spillman Application Administration (SAA)	(3 days)	1 class
6	CAD Administration	(3 days)	1 class
7	Spillman Mapping Administration	(2 hrs)	1 class
8	Pictometry Administration Training	(3 hrs)	1 class
9	Spillman Law Administration	(3 days)	1 class
10	Geobase Implementation	(6 days over three trips)	
11	Mobile Administration	(2 hrs)	1 class

12 **Courses for Users**

13	Course	(Time per class)	(# of classes)
----	---------------	-------------------------	-----------------------

14 **HUB**

15	Inquiry Introduction and Data Entry	(7 hrs)	8 classes
----	-------------------------------------	---------	-----------

16 **Law Records**

17	Incident Report Management	(3 hrs)	5 classes
18	Criminal History (Arrest and Booking)	(2 hrs)	5 classes
19	Case Management	(1 hr)	5 classes
20	Field Interviews	(1/4 hr)	5 classes
21	Wanted Persons	(1/4 hr)	5 classes
22	Intelligence Records	(1/2 hr)	5 classes
23	UCR/ECARS	(7 hrs)	1 class
24	Traffic Information	(1 hr)	2 classes
25	Evidence Management and Bar-Coding	(2 hrs)	1 class
26	Spillman Imaging	Provided with Hub Training	
27	Vehicle Impound	(1 hr)	1 class
28	Premises Information	(1 hr)	1 class
29	Licenses and Permits	(1 hr)	1 class
30	Pawned Property	(2 hrs)	1 class
31	Alarm Tracking	(2 hrs)	1 class
32	PIN Mapping/Advanced Searching	(4 hrs)	3 classes

33

1 **CAD**

2	Computer Aided Dispatch	(2 days)	3 classes
3	Spillman Mapping (User)	(2 hrs)	3 classes
4	Pictometry	(3 hrs)	2 classes
5	GeoBase	Part of each class's base training	
6			

7 **Mobile and AFRS**

8	RMS/State Queries/Forms	(2 hrs)	5 classes
9	Voiceless CAD, Mapping, & Premises	(1 hr)	5 classes
10	Mobile Messaging	Provided with Voiceless CAD Training	
11	Voiceless Dispatch/Mapping/AVL	(1 hr)	5 classes
12	Handheld RMS/State Queries/Forms	(2 hrs)	3 classes
13			

14 **Go-Live Assistance (per go-live phase)**

15	CAD, RMS, Mobile, MS	(4 trips)	
16	Mobile Handheld	(2 trips)	

17 **Refresher Training (post go-live)**

18	CAD, RMS, Mobile, MS	(6 days)	
19	Mobile Handheld	(3 days)	

20 **Recurring Training**

- 21 One trip per year for recurring training is included with annual support and maintenance.
- 22 Training topic or services provided during these 3 days is based on agency need.

1 **Course Descriptions**

2 This section provides descriptions of all the Spillman Application and SAA courses, followed by
3 descriptions of the User courses. Each Course Description includes:

- 4 • Course title and duration
- 5 • Required prerequisites
- 6 • Recommended attendees
- 7 • Course summary
- 8 • Course objectives

Administration Course Descriptions

Please be aware of the "Prerequisites" section under each course title. All courses have the prerequisites of Inquiry Introduction and Data Entry.

Project Team Training

Prerequisite Courses: None required

Who Should Attend:

- Spillman Application Administrator(s)
- Chief, Supervisors, Any decision making personnel that can create or modify the agency's policies and/or procedures

Course Summary:

Phase 1:

- HUB Classes
 - Inquiry Introduction
 - Data Entry
- Overview of modules purchased
- Review agency operations:
 - Will the Agency use the Racial Profiling module?
 - Will the Agency Report UCR and/or IBR?
 - Is the Agency Dispatching or Housing Inmates for Multiple Agencies?
 - Will the Agency host the machine for another Agency(s)?
 - Does the Agency have Data Entry Policies or Standards?
 - What division or departments exist within the Agency?
 - What are the responsibilities of each division/department?
 - Agencies anticipated training guidelines for new and existing employees.
- Software and Security overview and importance.
- Code table overview and set up.
- Project Training Workbooks; how it is to be used by the SAA(s).
- Make sure the correct personnel are attending the correct courses.
- Review the schedule and make necessary changes.

- 1 • Verify that all computers and machines used for training are working.
- 2 • Spillman Application Administrator Responsibilities

3 **Phase 2:** Occurs during user training, and takes place after the Project Team Training course
4 week. In this phase the SAA(s) attend(s) all the course training and take notes of setup and
5 department policy issues that may arise.

6 **Note:** the SAA classes can be taught without the agency being prepared to build their live database,
7 however, that may delay the go-live date for the agency.

8 The SAA classes have time allotted for software set up where the trainer observes the agencies
9 SAA(s) enter and check data entry, example, SYPRIV, Coded tables, JLHOUSE, etc. It is
10 important that the agency begin building code tables prior to the Spillman Application
11 Administration course is taught, which will be directed by a Spillman trainer. Code table setup
12 is an ongoing process.

13 **Course Objectives:** The objectives of the Project Team Training course are to teach the students
14 all of the HUB classes and software features that will allow them to better understand/utilize
15 the software's functionality. This class will also cover and explain the modules purchased,
16 agency procedural issues and how each module functions, i.e., relational database, strengths
17 and benefits of using this software daily, prepare the agency for a successful implementation
18 and how Spillman will make each employees daily job much easier to manage. Each student
19 will at a minimum, complete the practical exercises contained in this objective for the purpose
20 of understanding how to apply each task contained in this objective, to their job and their
21 agency.

1 **Spillman Application Administration**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

4 This course must be attended by all SAAs and those who will be responsible for group or
5 individual sections of the Spillman software i.e. section supervisors. IS/IT department should
6 attend if they will have day-to-day dealings with the Spillman software.

7 Course Summary:

- 8 • Security Administration
 - 9 - The System Privileges Table
 - 10 - Involvement Security
 - 11 - Searching for Added By, Modified By
 - 12 - Maintaining the SYLOG
- 13 • Application Administration
 - 14 - Involvement Dates
 - 15 - Creating Mail Groups
 - 16 - Field Security
 - 17 - Hiding Records
 - 18 - Partitioning and Agency Security
 - 19 - Security for Individual and Supplemental Narratives
 - 20 - Text Fields and Application Cue Cards
 - 21 - Changing apnames Code Numbers
 - 22 - Code Table Administration
 - 23 - System Parameters, Record Numbers, Backups
 - 24 - Database Maintenance Programs

25 Course Objectives: The Software Application manual and Code Table Setup manual should be
26 available during class for reference. This course could not possibly contain all items in the SAA
27 Manual due to its comprehensive content. In addition, because many applications cannot be
28 run or modified by more than one user at a time, a few course items will be demonstration only.

1 **CAD Administration**

2 Prerequisite Courses: Inquiry Introduction, Data Entry, Spillman Application Administration,
3 CAD

4 Who Should Attend:

- 5 • Spillman Application Administrators
- 6 • Dispatch supervisors
- 7 • Other key personnel responsible for planning and implementing the CAD portion of the
8 Spillman software.

9 Course Summary:

- 10 • Code tables unique to CAD
- 11 • Code tables used in CAD and shared by other tables.
- 12 • Application parameters used in CAD

13 Course Objectives: The objective of this course is to teach Spillman Application Administrators
14 how to set up the CAD code tables, and learn about other CAD parameters and variables.

1 **Spillman Mapping Administration**

2 Prerequisite Courses: Inquiry Introduction, Data Entry, CAD

3 Who Should Attend:

- 4 • Dispatch Supervisors
- 5 • Spillman Administrator(s)

6 Course Summary:

- 7 • Administration Application
 - 8 - Converting MapInfo files to ESRI shape(.shp) files
 - 9 - Directory Structure for the Map Files
 - 10 - Adding and Arranging Map Layers
 - 11 - Non-Latitude/Longitude Map Settings
 - 12 - Updating the Map
 - 13 - Application Parameters

14 Course Objectives: The objective of the Spillman Mapping Course is to teach the administrators
15 how to setup the CAD software in relation to Spillman Mapping, with its features and
16 functions.

17 **Pictometry Administration**

18 Who Should Attend:

- 19 • Dispatch Supervisors
- 20 • Spillman Administrator(s)

21 Course Summary:

- 22 - Brief Product Suite Definition
- 23 - Discussion: Image Data and GIS Data
- 24 - Installation / Upgrade of Applications
- 25 - Administrative Applications

26

1 **Spillman Law Administration**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

- 4 • Records Supervisors
- 5 • Patrol Supervisors
- 6 • Spillman Administrator(s)

7 Course Summary:

- 8 • Administration Application
- 9 • Code tables unique to Law
- 10 • Code tables used in Law and shared by other tables.
- 11 • Application parameters used in Law

12 Course Objectives: The objective of this course is to teach Spillman Application Administrators
13 how to set up the Law code tables, and learn about other Law parameters and variables.

1 **GeoBase Implementation**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

- 4 • Agency Administration
- 5 • Spillman Application Administrators
- 6 • GIS personnel

7 Course Summary:

- 8 • Explanation of differences in terminology in ArcGis and ArcView
- 9 • Layout of Arc Map Screen
- 10 • ArcMap Toolbars and Buttons
- 11 • Spillman.mxt template
- 12 • Adding Spillman Toolbar
- 13 • Layers
- 14 • Gbsteet layer attribute table
- 15 • Common Place layer attribute table
- 16 • Setting Snapping tolerances
- 17 • Creating features within a layer
- 18 • Editing features within a layer
- 19 • Using the tools within the Spillman Toolbar
- 20 • Transferring the files to Spillman

21 Course Objectives: The objective of the ArcView course is to introduce the students to basic
22 concepts of building a map in ArcView for use in the Spillman software.

1 **Mobile Administration**

2 Prerequisite Courses: Inquiry Introduction, Data Entry, Mobile State/RMS/Voiceless Dispatch,
3 AVL

4 Who Should Attend:
5 Spillman Application Administrators

6 Course Summary:

- 7 • Installing Mobile
 - 8 - Adding New Mobile Clients
- 9 • Setting up the External Communications Driver for State Queries
 - 10 - Dynamic vs. Static IP Network Setup
- 11 • Setting User Privileges for Mobile
 - 12 - Giving a User Administrative Access
- 13 • Defining MDC Units
 - 14 - Creating a CAD Status Sequence for MDC Units
- 15 • Mobile Modules
 - 16 - State Queries
 - 17 - Voiceless CAD
 - 18 - Monitoring the Use of Spillman Mobile
 - 19 - Applying Toolbar Settings to Another Computer
- 20 • Accessing Mobile Messaging Tables and the Sound Wave Directory
- 21 • Running the Spillman Mobile Utilities

22 Course Objectives: The objective of this course is to train SAAs on how to set up and use the
23 mobile system.

User Course Descriptions

Inquiry Introduction

Prerequisite Courses: Familiarity with Microsoft Windows Mouse Functionality

Who Should Attend:

All personnel that will use any section of the Spillman Software regardless of which modules they will use or to what extent. **This course is a prerequisite** to any other Spillman Software training. Any Personnel that **does not** attend this training will not be allowed to attend any other Spillman Software training.

- Records Personnel
- Communications Personnel
- Investigation Personnel
- Patrol Personnel
- Spillman Administrators
- Data Entry Personnel
- Administrations

Course Summary:

- Software: Accessing, Moving Around, Fundamentals and Features
- Searching for a Name Record and the List, View Options
- Searching in Other Fields
- Searching the Scar, Mark, and Tattoo Fields
- Searching the MO and Addresses with Geobase
- Name Information, Associate Name Information and Involvements
- Working with Multiple Spillman Windows; the Vehicle, Property, and Wanted Persons Table
- Software Reports

Course Objectives: The objectives of this course are to teach the user(s) how to use the system's features and functions, how to access the system (log on and off), move around the system, search for and find information in the database, and find and run system reports. This course teaches the basic system functionality that is required, and is consistent with each module. In other words, learn this class and the specific module training will be much easier. This class will also cover and explain the strengths and benefits of using the Spillman system daily, and how it will make each student's job much easier to manage. Each student will, at a minimum, complete the practical exercises contained in this course.

1 **Data Entry**

2 Prerequisite Courses: Inquiry Introduction

3 Who Should Attend:

4 All personnel that will use any section of the Spillman Software regardless of which modules
5 they will use or to what extent. **This course is a prerequisite** to any other Spillman Software
6 training. Any Personnel that **does not** attend this training will not be allowed to attend any
7 other Spillman Software training. Possible attendees include:

- 8 • Records Personnel
- 9 • Communications Personnel
- 10 • Investigation Personnel
- 11 • Patrol Personnel
- 12 • Spillman Administrators
- 13 • Data Entry Personnel
- 14 • Administrations

15 Course Summary:

- 16 • Adding Names to the Names Table
- 17 • Modifying Records, Adding Alert Codes, Previous Addresses & Phone Numbers
- 18 • Adding Address Information to Geobase
- 19 • Adding SMTs, and MO Information
- 20 • Adding Comments, Using the Spillman Editor
- 21 • Additional Name Information
- 22 • Adding Vehicles
- 23 • Adding Property
- 24 • Adding Custody Records to the Property Table
- 25 • Creating Alias Records
- 26 • Adding Involvements to Records

27 Course Objectives: The objectives of the Data Entry course are to teach the students how to add
28 data into the database, pointing out software features that will allow them to better utilize the
29 software's functionality. This class will also cover and explain the strengths, benefits, and
30 consistency of adding data into this database, and how it will make each student's daily job
31 much easier to manage. Each student will, at a minimum, complete the practical exercises
32 contained in this objective for the purpose of understanding how to apply each task to their job
33 and their agency.

1 **Law Incident Report Management**

2 Prerequisite Courses: Inquiry Introduction, Data Entry (This course is required for those taking
3 IBR, UCR and Case Management courses)

4 Who Should Attend:

5 Personnel who should attend this class are those responsible for the entry and management of
6 the agency's Law Incident Reports. The agency's departmental structure will determine exactly
7 who should attend. It is not necessary for patrol, dispatch, etc. to attend this class unless they
8 enter and manage Incident reports and/or narratives. Most commonly today agencies have
9 personnel assigned to this task for the purposes of consistency and reporting UCR and/or IBR.

10 Possible attendees include:

- 11 • Data Entry Personnel
- 12 • Records Clerks
- 13 • Spillman Administrator(s)
- 14 • Patrol Supervisors
- 15 • Investigation (Required for Case Management)
- 16 • Chief, Captains, etc., for decision making purposes
- 17 • Patrol (Only if they will add and manage the incident reports)

18 Course Summary:

- 19 • The Incident Table
- 20 • Finding and Modifying Incident Reports
- 21 • Adding Narratives
- 22 • Adding Supplemental Narratives
- 23 • Printing Narratives
- 24 • Incident Involvements
- 25 • Narrative Security
- 26 • Reports
- 27 • Option Line Features and Access

28 Course Objectives: The objectives of the Incident Management course are to teach the students
29 how to add, modify, and manage the data entered into the system, pointing out system features
30 that will allow them to better utilize the software's functionality. This class will also cover and
31 explain the strengths, benefits, and consistency of adding data into the Incident table and how it
32 will make each student's daily job much easier to manage. Each student will, at a minimum,
33 complete the practical exercises contained in this course for the purpose of understanding how
34 to apply each task to their job and their agency procedures.

1 **Law Case Management**

2 Prerequisite Courses: Inquiry Introduction, Data Entry, Law Incident Management

3 Who Should Attend:

4 Personnel that should attend this class are those persons responsible for the entry and
5 management of the agency's Cases as they relate to the Law Incident Reports. The agency's
6 departmental structure will determine exactly who should attend. It is not necessary for patrol,
7 dispatch, etc. to attend this class unless they enter and manage Case Management Incident
8 reports. It is recommended that the Chief Investigator and all other investigators attend this
9 class. Possible attendees include:

- 10 • Spillman Administrators
- 11 • Patrol Supervisors
- 12 • Investigation
- 13 • Chief, Captains, etc., for decision making purposes
- 14 • Patrol (Only if they will add and manage the Case Management Records)

15 Course Summary:

- 16 • Case Management Introduction
- 17 • The Case Management Record; Assignment and Status
- 18 • Incident Narrative and Case Notes
- 19 • Solvability Evaluation and Officer Activity
- 20 • Case Management Involvements
- 21 • Case Management Reports

22 Course Objectives: The objective of the Case Management course is to teach the students how to
23 add data into the Case Management module for the purpose of tracking and managing their
24 cases. This class will also cover and explain the strengths, benefits, and consistency of using this
25 module, and how it will make each student's daily job much easier to manage. Each student
26 will, at a minimum, complete the practical exercises contained in this objective for the purpose
27 of understanding how to apply each task to their job and their agency.

1 **Law Criminal History Records**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

4 Personnel that should attend this class are those persons responsible for the entry and
5 management of the agency's Criminal History Bookings (Non-Custody/Site and Release) as
6 they relate to the Law Incident Reports, UCR and IBR. The agency's departmental structure will
7 determine exactly who should attend. It is not necessary for patrol, dispatch, etc. to attend this
8 class unless they enter and manage Criminal History Bookings. This course is not designed for
9 the Jail Staff Personnel because the same course is covered during the Jail Training. Possible
10 attendees include:

- 11 • Spillman Administrators
- 12 • Data Entry Personnel (Only if they will add and manage the Criminal History
13 Bookings.)
- 14 • Records Personnel (Only if they will add and manage the Criminal History Bookings.)
- 15 • Patrol Supervisors (Only if they will add and manage the Criminal History Bookings.)
- 16 • Investigation (Only if they will add and manage the Criminal History Bookings.)
- 17 • Chief, Captains, etc., for decision making purposes
- 18 • Patrol (Only if they will add and manage the Criminal History Bookings.)

19 Course Summary:

- 20 • Introduction Arrest and Offense
- 21 • Bonds, Fines and Payments
- 22 • Management of Criminal History Bookings
- 23 • Offense Summary Screen
- 24 • Criminal History Reports
- 25 • Transferring/Deleting Bookings

26 Course Objectives: The objectives of the Criminal History course are to teach the students how
27 to add and manage non-custody bookings, pointing out system features that will allow them to
28 better utilize the software's functionality. This class will also cover and explain the strengths,
29 benefits, and consistency of how adding data into the Criminal History module affects UCR and
30 IBR reporting, and how it will make each student's daily job much easier to manage. Each
31 student will, at a minimum, complete the practical exercises contained in this course for the
32 purpose of understanding how to apply each task to their job and agency.

1 **Law Field Interviews**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

4 Personnel that should attend this class are those persons responsible for the entry and
5 management of the agency's Field Interviews. The agency's departmental structure will
6 determine exactly who should attend. It is not necessary or recommended for patrol, dispatch,
7 etc. to attend this class unless they enter and manage Field Interview Cards. Possible attendees
8 include:

- 9 • Spillman Administrators
- 10 • Data Entry Personnel
- 11 • Patrol (Only if they will add and manage the entering of Field Interviews)

12 Course Summary:

- 13 • Overview of the Field Interview Table

14 Course Objectives: The objective of this course is to train user on how to use the field interview
15 function.

1 **Law Wanted Persons**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

4 Personnel that should attend this class are those persons responsible for the entry and
5 management of the agency's Wanted Persons Records. The agency's departmental structure will
6 determine exactly who should attend. It is not necessary for patrol, dispatch, etc. to attend this
7 class unless they enter and manage Wanted Persons. Most commonly today agencies have
8 personnel assigned to this task for the purposes of consistence and reporting UCR and/or IBR.
9 The following list contains possible attendees.

- 10 • Data Entry Personnel (Only if they will add and manage the Wanted Person Records)
- 11 • Records Clerks (Only if they will add and manage the Wanted Person Records)
- 12 • Dispatch (Only if they will add and manage the Wanted Person Records)
- 13 • Spillman Administrators
- 14 • Patrol Supervisors (Only if they will add and manage the Wanted Person Records)
- 15 • Investigation (Only if they will add and manage the Wanted Person Records)
- 16 • Patrol (Only if they will add and manage the Wanted Person Records)

17 Course Summary:

- 18 • Wanted Persons Screen
- 19 • Wanted Persons Reports

20 Course Objectives: The objectives of the Wanted Persons course are to teach the students how to
21 add, modify, and manage the data entered into the system, pointing out system features that
22 will allow them to better utilize the software's functionality. This class will also cover and
23 explain the strengths, benefits, and consistency of adding data into the Wanted Persons table,
24 and how it will make each student's daily job much easier to manage. Each student will, at a
25 minimum, complete the practical exercises contained in this course.

1 **Law Intelligence Records**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

4 Personnel that should attend this class are those persons responsible for the entry and
5 management of the agency's Intelligence activity. The agency's departmental structure will
6 determine exactly who should attend. It is not necessary or recommended for patrol, dispatch,
7 etc. to attend this class unless they enter and manage Intelligence Records. It is recommended
8 that the Chief Investigator and the investigators assigned to a task force unit, gangs, drugs, etc.,
9 attend this class. The following is a possible list of attendees by title:

- 10 • Spillman Administrators
- 11 • Task Force Members, i.e., Drugs, Gangs, etc.
- 12 • Patrol Supervisors (Only if they will add and manage the Intelligence Records.)
- 13 • Investigation (Only if they will add and manage the Intelligence Records.)
- 14 • Chief, Captains, etc., for decision making purposes
- 15 • Patrol (Only if they will add and manage the Intelligence Records.)

16 Course Summary:

- 17 • Intelligence Table Overview
- 18 • Hangouts
- 19 • Associates, Vehicles
- 20 • Residence, Employment
- 21 • Suspicious Activities, Miscellaneous Comments
- 22 • Protect Records

23 Course Objectives: The objective of the Intelligence Records course is to teach the students how
24 to add data into the Intelligence Records module for the purpose of tracking and managing
25 their suspects, drug dealers, gang members, and criminal activity. This class will also cover and
26 explain the strengths, benefits, and consistency of using this module and how it can make each
27 student's daily job much easier to manage. Each student will, at a minimum, complete the
28 practical exercises contained in this course for the purpose of understanding how to apply each
29 task contained in this objective to their job and agency.

1 **Law UCR/ECARS**

2 Prerequisites: Inquiry Introduction, Data Entry (Names, Vehicles, Property), Law Incident
3 Management, Arrest & Offense Course (i.e., Criminal History or Jail Course)

4 Who Should Attend:

5 Personnel that should attend this class are those responsible for the entry and management of
6 the agency's UCR reporting and or Validations. The agency's departmental structure will
7 determine exactly who should attend. It is not necessary for patrol, dispatch, etc., to attend this
8 class, unless they enter and manage UCR statistics. Today, most commonly, agencies have
9 personnel assigned to this task for the purposes of consistency and reporting UCR and/or IBR.

10 The following list contains possible attendees:

- 11 • Data Entry Personnel
- 12 • Records Clerks
- 13 • Spillman Application Administrator(s)
- 14 • Patrol Supervisors
- 15 • Personnel that manage and report UCR for your agency

16 Course Summary:

- 17 • Software Setup
- 18 • Tables and Fields Used by UCR
- 19 • Domestic Violence Reporting
- 20 • Homicide Reporting
- 21 • Officers Killed/Assaulted
- 22 • UCR Reports

23 Course Objectives: The objective of the UCR Management course is to teach the students how to
24 add, modify, and manage the data entered into the database for the purpose of reporting UCR
25 statistic information. This class will also cover and explain the strengths, benefits, of using
26 SUMMIT to manage UCR information and how it will make each student's daily job much
27 easier to manage. Each student will, at a minimum, complete the practical exercises contained in
28 this course for the purpose of understanding how to apply each task to their job and their
29 agency procedures.

30

1 **Traffic Information**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

4 Personnel that will enter and manage traffic information in the Spillman Software, such as:

5 • Data Entry Clerks

6 • Records Clerks

7 • Patrol Personnel

8 Course Summary:

9 • Accident Table

10 • Traffic Citations

11 • Traffic Warnings

12 Course Objectives: The objectives of the Traffic Information Course is to teach the students how
13 to add data into the system pointing out system features that will allow them to better utilize
14 the software's functionality. This class will also cover and explain the strengths, benefits and
15 consistency of adding data into the Traffic Module and how managing the data will make each
16 students daily job much easier.

1 **Evidence Management**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

- 4 • Evidence Personnel
- 5 • Spillman Administrator(s)
- 6 • Personnel that will enter such data into this module

7 Course Summary:

- 8 • Evidence Entry
- 9 • Custody Entry
- 10 • Evidence History
- 11 • Evidence Reports

12 Course Objectives: The Evidence Management Course will teach the students how to use the
13 software to manage and track items of evidence, lost and found property. This course will teach
14 the students the functions and features to successfully manage evidence and chain of custody
15 records. Each student will complete the exercises contained in this course for the purpose of
16 learning how to use this module.

1 **Evidence Bar Coding**

2 Prerequisite Courses: Inquiry Introduction, Data Entry, Evidence Management

3 Who Should Attend:

4 Personnel that should attend this class are those responsible for Evidence Management,
5 Inventory Management, and Jail functions. This would include the data entry for these areas.
6 The agency's departmental structure will determine exactly who should attend. It is
7 recommended that the Spillman Administrator attend this course.

8 Course Summary:

- 9 • History of Bar Coding
- 10 • Hardware
- 11 • Why Bar Code
- 12 • Printing a Bar Code and Bar Code Sheet
- 13 • Handheld Inventory Auditing
- 14 • Handheld Inventory Auditing Reports
- 15 • Setup of Evidence Bar Coding
- 16 • Final Exam

17 Course Objectives: The objective of the Bar Coding course is to give students a better
18 understanding of how Bar Coding can help them enter and manage data. This class will also
19 cover and explain how Bar Coding can make each student's daily job easier by reducing the
20 time involved in data management and increase data integrity by reducing entry error. The
21 student will be introduced to the hardware required for Bar Coding and which hardware best
22 integrates with the Spillman application. The student will also explore the possible uses for Bar
23 Coding as it applies to daily agency functions.
24

1 **Spillman Imaging**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

- 4 • Spillman Administrator(s)
- 5 • Patrol Officers
- 6 • Data Entry Clerks
- 7 • Anyone who will add images to the Spillman Software

8 Course Summary:

- 9 • What is Spillman Imaging?
- 10 • Capturing and Importing Images
- 11 • Editing Images
- 12 • Viewing and Printing Images
- 13 • Copying & Pasting an Image
- 14 • Exporting Images
- 15 • Replacing and Archiving Images
- 16 • View Archived Images
- 17 • Deleting Images
- 18 • Merging Duplicate Name Records that Have Attached Images

19 Course Objective: The objective of the Spillman Imaging course is to teach the students how to
20 capture/import images into the Spillman software then how to format those images.

1 **Vehicle Impound**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

4 Personnel that manage vehicle impound data including any money that may be collected or
5 tracked Data Entry Personnel, such as:

- 6 • Records Personnel
- 7 • Dispatch
- 8 • Spillman Application Administrator(s)

9 Course Summary:

- 10 • The Impounded Vehicle Table
- 11 • Modifying Impound Information
- 12 • Impounded Vehicle Fees
- 13 • Printing Impounded Vehicle Notices
- 14 • Entering Vehicle Sales
- 15 • Software Reports

16 Course Objectives: The objectives of the Vehicle Impound Course are to teach the students how
17 to add information into the database, pointing out features that will allow them to better utilize
18 the software's functionality. This class will also address and explain the strengths, benefits, and
19 consistency of adding data into the module, and how to manage vehicle impound monies and
20 sales within the software. Each student will, at a minimum, complete the practical exercises.

1 **Premises Information**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

- 4 • Spillman Application Administrator(s)
- 5 • Communication Supervisors
- 6 • Records Personnel
- 7 • Communications Personnel
- 8 • Fire Personnel

9 Course Summary:

- 10 • Adding a premises record
- 11 • Adding Hazardous Materials
- 12 • Premises Involvements

13 Course Objectives: The objectives of this course are to teach the user (s) how to use the premises
14 features and functions, how to access the table, how to add data to the table, including
15 hazardous materials if used by the agency. Also this course gives an overview of the
16 involvements created automatically by the database when using this module. Each student will
17 at a minimum, complete the practical exercises contained in this course.

18

1 **Licenses and Permits**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

4 Personnel that issue collect money and manage licenses and permits, such as:

- 5 • Data Entry Personnel
- 6 • Records Personnel
- 7 • Spillman Application Administrator(s)

8 Course Summary:

- 9 • License and Permit Records Overview
- 10 • Bicycle Permit
- 11 • Weapon Permit
- 12 • Other Permits and Licenses
- 13 • Permit and License Fees
- 14 • Printing the Permit and Reports

15 Course Objectives: The objectives of the License and Permit Course are to teach the students
16 how to add data into the database pointing out features that will allow them to better utilize the
17 software's functionality. This class will also cover and explain the strengths, benefits, and
18 consistency of adding data into the module, and how managing the monies and printing
19 permits will make each student's job much easier. Each student will, at a minimum, complete
20 the practical exercises contained in this objective for the purpose of understanding how to apply
21 each task to their job and their agency.

1 **Pawned Property**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

- 4 • Personnel that will enter and manage pawned information in the Spillman Software
- 5 • Data Entry Clerks
- 6 • Records Clerks
- 7 • Patrol Personnel
- 8 • Investigators
- 9 • Spillman Application Administrator(s)

10 Course Summary:

- 11 • The Pawn Shop Table
- 12 • The Pawned Property Table
- 13 • Transferring Pawn Data
- 14 • The Pawn Activities Table
- 15 • The Pawn Activities Table
- 16 • Pawned Property Reports

17 Course Objectives: The objectives of the Pawned Property Course are to teach the students how
18 to add data into the database, pointing out features that will allow them to better utilize the
19 software's functionality. This class will also cover and explain the strengths, benefits, and
20 consistency of adding data into the Pawned Property Module, and how managing the data will
21 make each student's daily job much easier. Each student will, at a minimum, complete the
22 practical exercises contained in this objective for the purpose of understanding how to apply
23 each task to their job and their agency.

1 **Alarm Tracking**

2 Prerequisite Course: Inquiry Introduction, Data Entry, Incident Management, Licenses and
3 Permits (If Applicable)

4 Who Should Attend:

- 5 • Personnel Assigned to Manage Alarm Information
- 6 • Spillman Application Administrator(s)

7 Course Summary:

- 8 • Adding an Alarm Tracking Record and Alarm Module Overview
- 9 • Entering the Alarm Types
- 10 • Adding False Alarm Incidents to the Alarm Tracking Module
- 11 • Resolving Discrepancies in the Alarm Tracking Module
- 12 • Deleting Incidents that Indicate Discrepancies
- 13 • Updating Alarm Tracking Fees
- 14 • Managing Fees
- 15 • Additional Alarm Tracking Reports
- 16 • Alarm Tracking Administration (covers module setup)

17 Course Objective: The objectives of this course are to teach the user(s) how to use the Alarm
18 Tracking software's features and functions. This course teaches the basic software functionality
19 that is required to use this module. However, each user should read the Alarm Tracking user
20 handbook/documentation. This class will also cover and explain the strengths and benefits of
21 using the Alarm Tracking Module to manage false alarms, pointing out how it will make each
22 student's daily job much easier to manage. Each student will, at a minimum, complete the
23 practical exercises contained in this course.

1 **Pin Mapping/Advanced Searching**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3

4 Who Should Attend:

- 5 • Records Personnel Supervisors
- 6 • Communications Personnel Supervisors
- 7 • Corrections Personnel Supervisors
- 8 • Investigation Personnel Supervisors
- 9 • Patrol Personnel Supervisors
- 10 • Spillman Administrators

11 Course Summary:

- 12 • Using the JADD Search
- 13 • Using the JRES Search
- 14 • Using the JTBL Search
- 15 • Searching Addresses using Geobase
- 16 • System Reports
- 17 • Searching/Adding the On-Call Scheduling, On-Call Status and Resource Table
- 18 • Adding On Call Scheduling, and Resource Information
- 19 • Dissemination Table

20

21 Course Objectives: The objective of the Spillman course is to teach the students more system
22 search features that will allow them to better utilize the software's functionality. This class will
23 also cover and explain the strengths and benefits of using this system daily, and how it will
24 make each student's job much easier to manage. Each student will, at a minimum, complete the
25 practical exercises contained in this objective for the purpose of understanding how to apply
26 each task to their job and their agency.

1 **Computer Aided Dispatch (CAD)**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

- 4 • Dispatchers Personnel
- 5 • Call Takers Personnel
- 6 • Dispatch Supervisors
- 7 • Spillman Application Administrator(s)

8 Course Summary:

- 9 • CAD Screen, Moving Around and Help Features
- 10 • Radio Log Entries
- 11 • Adding Calls, Dispatching Calls, Updating Calls, Units and Call Completion
- 12 • CAD Screen Sizing, Sorting and Configurations
- 13 • Using the Mouse to Manage the CAD Screen
- 14 • Modifying Calls, CAD Comments & with Units, Viewing Comments, Call Information
- 15 • Calls Screen
- 16 • Sending Backup Units
- 17 • Canceling Calls, Units and Changing Responsible Units
- 18 • Exchange Units and Update Unit Zones
- 19 • Traffic Stop Command and The Traffic Stop Table
- 20 • Turn Traffic Stops into Calls
- 21 • Dispatching Using Intersection & Common place names
- 22 • Dispatching and Managing Incidents for Call Types
- 23 • Adding & Dispatching Multiple Calls types with Special Instructions

24 Final Exercise I

- 25 • Adding Calls for On-Site Activity
- 26 • Radio History, Unit and Officer Information
- 27 • Adding Alarm Calls
- 28 • Adding Information Calls
- 29 • Adding Miscellaneous Calls
- 30 • Dispatching Wreckers

- 1 • Dispatcher Positions and Responsible Unit Review
- 2 • Configuring Numeric Keypad; Saving and Loading Function Key Assignments
- 3 • Adding & Dispatching, Simultaneous Tasks, Current Calls with Function Keys
- 4 • Radio Log – Name and Vehicle Inquiries
- 5 • Access to Tables from CAD
- 6 • Re-Opening Completed Calls
- 7 • Time Lapse Alerts & Pager Numbers
- 8 • Merging Duplicate Calls
- 9 • Water Sources
- 10 • Dispatching with Premises Information
- 11 • Hazardous Materials Table
- 12 • Racial Profiling Table

13 Final Practical Examination II

- 14 • What Recommended Units Does
- 15 • Dispatching with Recommended Units
- 16 • Letting the Software Automatically Recommend Units
- 17 • Dispatching When the Response Calls for Multiple Units of Multiple Kinds
- 18 • Address Specific Recommended Units

19 Course Objective: The objective of the Computer Aided Dispatch (CAD) course is to teach the
20 students how to use the CAD system with its features and functions. This class will also cover
21 and explain the strengths and benefits of using this system daily and how it will make each
22 students daily job much easier to manage. Each student will at a minimum, complete the
23 practical exercises contained in this course for the purpose of understanding how to apply each
24 task contained in this course, to their job and their agency.

1 **Spillman Mapping (User)**

2 Prerequisite Courses: Inquiry Introduction, Data Entry, CAD

3 Who Should Attend:

- 4 • Dispatch Personnel
- 5 • Call Taker Personnel
- 6 • Dispatch Supervisors
- 7 • Spillman Administrator(s)

8 Course Summary:

- 9 • What is Spillman Mapping?
- 10 • Configuring the Map for a Single Session
- 11 • Introduction to Spillman Mapping
- 12 • Performing CAD Tasks from the Map
- 13 • AVL Functions
- 14 • CAD Position List

15 Course Objective: The objective of the Spillman Mapping course is to teach the students how to
16 use the CAD software in relation to Spillman Mapping, with its features and functions. This
17 class will also cover and explain the strengths and benefits of using this software to display
18 calls, and possibly units, on a graphical map.
19

1 **Pictometry (User)**

2 Prerequisite Courses: CAD, CAD Mapping

3 Who Should Attend:

- 4 • Dispatch Personnel
- 5 • Call Taker Personnel
- 6 • Dispatch Supervisors
- 7 • Spillman Administrator(s)

8 Course Summary:

- 9 • Introduction to Pictometry - What we capture and how
- 10 • The Image Library
 - 11 – Base Concepts
 - 12 – Available Documentation
 - 13 – Electronic Field Study's interface
 - 14 • Finding images
 - 15 • Navigation Tools
 - 16 • GIS Overlays and GIS Query
 - 17 • Printing Options and Exporting
 - 18 • Image Analysis Tools
 - 19 • Annotation (Markup) tools
 - 20

1 **Mobile RMS/State Queries/AFR Forms**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

- 4 • Personnel that will use Spillman Mobile RMS Queries
- 5 • Spillman Application Administrator(s)

6 Course Summary:

- 7 • Accessing, Locking and Exiting Mobile
- 8 • The Names, Property, and Vehicle Screens with State Link
- 9 • Navigating Spillman Mobile
- 10 • Printing from Mobile
- 11 • Customizing the Icon Menus and Mobile Display Settings
- 12 • Practical Exercise A
- 13 • The Law Incident Screen
- 14 • The Premise Screen
- 15 • The Hazmat Screen
- 16 • State Link Queries for Guns and Boats
- 17 • Mobile generic Law forms OR Accident and Citation forms (Handheld Subsystem)

18 Course Objectives: The objective of the Mobile RMS course is to teach the students how to use
19 Spillman Mobile to obtain information from the local database and the state NCIC database.
20 This course will show the features of Mobile, and explain their functionalities.

21

1 **Mobile Voiceless Dispatch/Mapping/AVL**

2 Prerequisite Courses: Inquiry Introduction, Data Entry, Mobile RMS-State Queries

3 Who Should Attend:

- 4 • Personnel that will use Spillman Mobile Voiceless Dispatch.
- 5 • Spillman Application Administrator(s)

6 Course Summary:

- 7 • Accessing, Locking, and Exiting Mobile
- 8 • Mobile Voiceless Dispatch
- 9 • Radio Log Entries
- 10 • Mobile CAD Menu Items and Icons
- 11 • Practical Exercise A
- 12 • Mobile AVL
- 13 • Mobile Mapping
- 14 • Creating and Changing Map Layers

15 Course Objectives: The objective of this course is to train users on the mobile features and
16 functions.

1 **Mobile Messaging**

2 Prerequisite Courses: Inquiry Introduction, Data Entry, Mobile RMS-State Queries

3 Who Should Attend:

- 4 • Personnel that will use Spillman Mobile Messaging
- 5 • Spillman Application Administrator(s)

6 Course Summary:

- 7 • Spillman Mobile E-mail Management
 - 8 • Messages Received
 - 9 • Saved Messages Folders
 - 10 • Deleted Messages Folders
 - 11 • Reply and Reply to All Messages
 - 12 • Forwarding Messages
 - 13 • Cutting, Copying, and Pasting Message Information
 - 14 • Creating Mail Groups
 - 15 • Customizing Mail and Messaging Sounds
 - 16 • Instant Messaging
 - 17 • Mobile Alert Messaging
 - 18 • Customizing Mobile Settings
 - 19 • Local and State Return Folders
- 20 Course Objectives: The objective of the Mobile Messaging course is to teach the students how to
21 use Spillman Mobile to obtain information using the Messaging Center. This course will show
22 the features of Mobile Messaging, and explain their functionalities.

1 **Mobile Voiceless Dispatch/Mapping/AVL**

2 Prerequisite Courses: Inquiry Introduction, Data Entry

3 Who Should Attend:

- 4 • Employees that will use the Mobile application

5 Course Summary:

- 6 • Software: Accessing, Toolbars

- 7 • Computer Aided Dispatch (CAD) Screen

- 8 • Radio Log and Histories

- 9 • Understanding the AVL Software

- 10 • Starting the GPS Receiver

- 11 • Map Screen

- 12 • Selecting the Category of Units/Calls to be Displayed

- 13 • Setting up the Map

- 14 • Arranging the Map Layers

- 15 • Location's latitude and longitude

- 16 • List of Window commands used in Mobile

17 Course Objectives: The objective of this course is to train users on the mobile features and
18 functions.

Exhibit E: Acceptance Test Plan

Table of Contents

1	Acceptance Testing Overview.....	3
2	Functional Testing.....	3
3	Reliability Testing	4
4	Performance Testing	4

n.

1 **1 Acceptance Testing Overview**

2 Spillman will work in conjunction with the Customer to perform three types of acceptance tests:
3 functional, performance and reliability. Functional Tests will take place prior to going live with
4 each Subsystem. Following the Functional Test, each Subsystem will have its own 30-day
5 Preliminary Acceptance Test period in a live environment. The test periods shall run
6 sequentially. The CAD/MS/MDS/RMS Subsystem will be first, followed by AFRS/HCS. The 30-
7 day Preliminary Acceptance Test period will be extended, as necessary, until Spillman has
8 remedied all reported, reproducible P0 and P1 Defects. The CAD/MS/MDS/RMS Subsystem
9 must successfully pass the 30-day Preliminary Acceptance Test period before the AFRS/HCS
10 Subsystem 30-day Preliminary Acceptance Test period will begin. Upon successful completion
11 of the AFRS/HCS Subsystem Preliminary Acceptance Test period, a 30-day Final System
12 Acceptance Test period will commence. This Acceptance Test Plan (ATP) is included as an
13 exhibit to the Professional Services and Software License Agreement (the "Agreement") as a
14 mutually agreeable methodology for completing these testing activities.

15 All tracking of test results will be done via a mutually agreeable tracking form.

16 **2 Functional Testing**

17 To help facilitate the Functional Tests for each Subsystem, Spillman will provide the Customer
18 with its standard functional acceptance tests for each Spillman application module. The
19 Customer will have an opportunity to develop mutually agreeable additional tests and
20 scenarios as a task during System implementation.

21 In the process of testing the functional requirements, the Customer will also test specific
22 commands to determine whether the command executes the function it was intended to execute
23 in the manner expected, whether the command generates the appropriate acknowledgement
24 message, if information is correctly sent and received, and whether the commands generate the
25 appropriate error messages when input incorrectly.

26 During Functional Testing, Spillman and the Customer will track whether requirements pass or
27 fail a test. If a requirement fails a test, it will be classified as a "Failure." Spillman shall have up
28 to ten (10) days to correct any Failure or provide an explanation of when the Failure will be
29 corrected. Spillman shall resolve the Failure either by fixing the Failure or replacing the
30 Licensed Program, or by providing a mutually agreeable resolution. Once a Failure is
31 corrected, Spillman and the Customer will conduct additional testing of that requirement to
32 verify that it passes the test.

33 The Subsystem will be deemed to have passed Functional Testing when all requirements pass
34 the test or mutually acceptable remedies for the Failures have been developed. Once the

1 Subsystem has passed the Functional Tests, it will be placed in a live environment for
2 operational use.

3 **3 Reliability Testing**

4 The purpose of the Reliability Test(s) is to verify that the System will perform in a live
5 environment as per the reliability standards stated in Exhibit C, Performance and Reliability
6 Standards. The Customer will be responsible monitoring the System for compliance with
7 reliability requirements throughout the testing period(s).

8 **4 Performance Testing**

9 The purpose of performance testing is to verify the System meets the transaction performance
10 standards in Exhibit C, Performance and Reliability Standards.

11 The Customer will be responsible for monitoring and measuring System Performance during
12 the 30-day Final System Acceptance Test period. The Customer can conduct any performance
13 test it desires, but must be able to systematically document and track any discovered
14 performance deficiencies, including detailed information as to the sequence of events leading
15 up to the problem, time of day, node name or unit involved and other pertinent details.

16 If performance degradation, defined as a replicable inability to meet the performance standards
17 in Exhibit C, Performance and Reliability Standards is discovered, the Customer may choose to
18 stop use of the application or use whatever operational portion may be available.

Exhibit F: Project Schedule

Tracy Police Department, CA (Sample schedule only, actual dates will be determined as mutually agreed upon by all parties)

ID	Task Name	Duration	Start
38	Verify 3rd Party Products listed in Exhibit H	1 day	Thu 11/8/12
39	Order 3rd Party Products as specified in Exhibit H	15 wks	Fri 11/9/12
40	Develop Data Entry Standards	38 days	Mon 10/29/12
41	Tracy PD will revise sample data entry standards	30 days	Thu 11/8/12
42	Create formal policies and standard operating procedures to guide data entry	30 days	Mon 10/29/12
43	Conduct First onsite Map Training	160 days	Tue 11/27/12
44	Tracy PD to Collect Current Map Data	3 days	Tue 11/27/12
45	Spillman will Provide Map Building Training	3 days	Tue 11/27/12
46	Spillman will Assess Current Map Data	3 days	Tue 11/27/12
47	Spillman will provide feedback on Maps	3 days	Tue 11/27/12
48	Tracy PD to Build Map	8 mons	Tue 11/27/12
49	Installation Phase	183 days	Fri 2/1/13
50	Install and Configure Hardware and Operating System	5 days	Mon 3/4/13
51	Spillman to Install Server including OS	5 days	Mon 3/4/13
52	Cisco I811 Connection	5 days	Mon 3/4/13
53	Spillman & Tracy PD to configure VPN for connectivity to Spillman Headquarters	5 days	Mon 3/4/13
54	Install Core Spillman Application	26 days	Fri 2/1/13
55	Spillman to Install Core Application	5 days	Mon 3/4/13
56	Tracy PD to Install and Configure Workstations on TPD network	4 wks	Fri 2/1/13
57	Configure External Interfaces	180 days	Fri 2/1/13
58	Spillman to Install, Configure, and Test Interfaces identified in Exhibit H	9 mons	Fri 2/1/13
59	Tracy PD to work with state on connection for StateLink	9 mons	Fri 2/1/13
60	Tracy PD to obtain user and terminal information from state	9 mons	Fri 2/1/13
61	Tracy PD to provide Data Stream format for E911 feed	9 mons	Fri 2/1/13
62	Tracy PD to provide Dispatch workstation IP's	9 mons	Fri 2/1/13
63	Tracy PD to assist in testing of Interfaces	9 mons	Fri 2/1/13
64	Initial Training Phase	10 days	Mon 3/18/13
65	Set Up Training Room	2 wks	Mon 3/18/13
66	Conduct Project Team Training	3 days	Tue 4/2/13
67	Project Team Training	3 days	Tue 4/2/13
68	Conduct System Administration Training	72 days	Tue 4/9/13
69	Spillman to provide Spillman Application Administration Training	3 days	Tue 4/9/13
70	Spillman to provide CAD Module Administration Training	3 days	Tue 4/16/13
71	Spillman to provide Law Module Administration Training	3 days	Tue 4/23/13
72	Tracy PD to enter Code Tables	60 days	Thu 4/25/13
73	Conduct Follow-up Map Training	63 days	Tue 4/30/13
74	Spillman will assess current map data and provide feedback	3 days	Tue 4/30/13

This implementation schedule is for example only, it is not meant to be a promissory timeline. Dates are to be determined by the agency and assigned project manager during the Pre Implementation Meeting.

Tracy Police Department, CA (Sample schedule only, actual dates will be determined as mutually agreed upon by all parties)

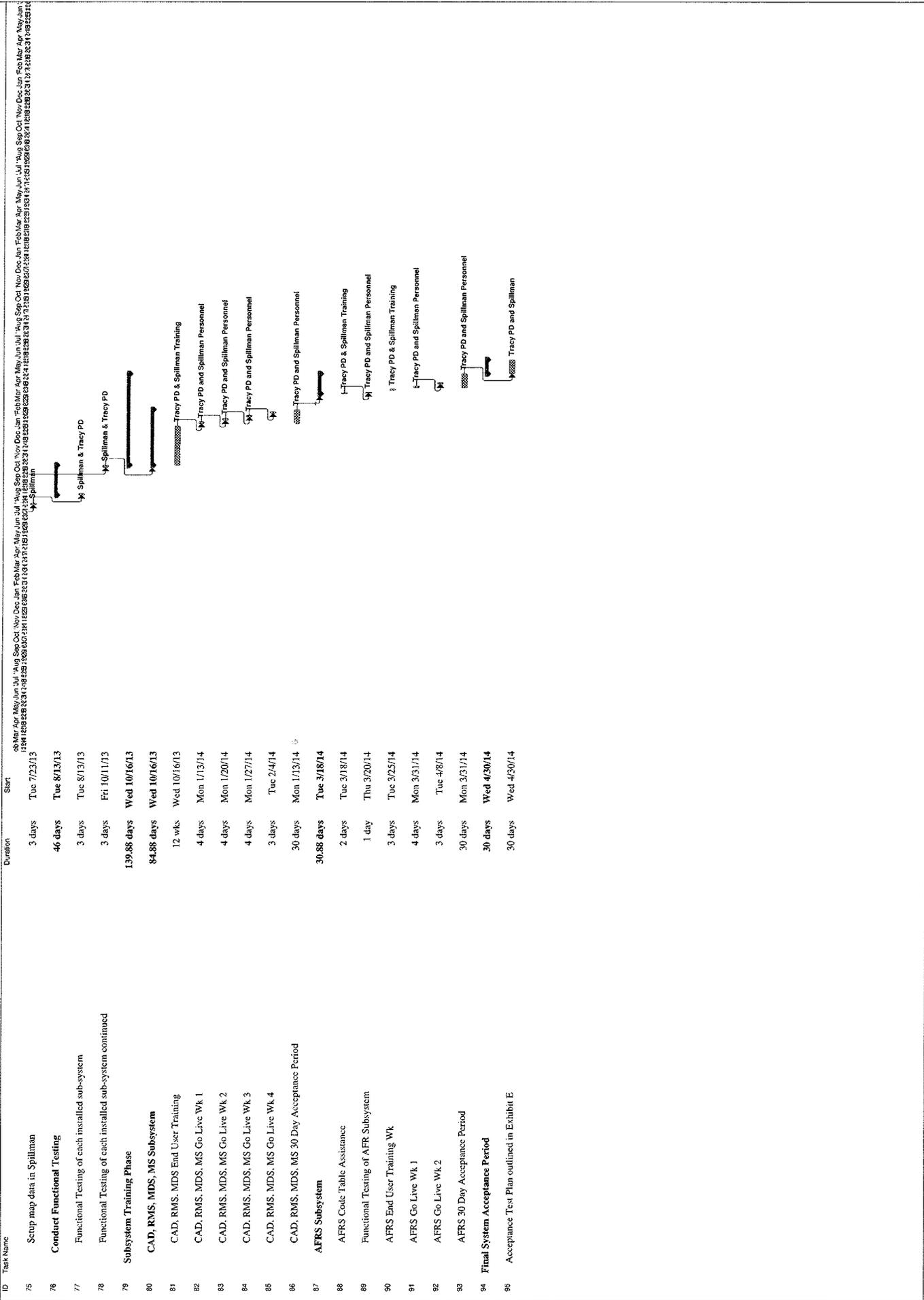


Exhibit G

Maintenance and Support Agreement

Maintenance and Support Agreement

This Maintenance and Support Agreement (the "Support Agreement"), is by and between Spillman Technologies, Inc. ("Spillman") and Tracy Police Department ("Customer"). In connection with the Professional Services and Software License Agreement between the parties (the "Agreement"), Customer desires to purchase from Spillman certain maintenance and support services for the Software.

The effective date of this Support Agreement shall be on the date of Final System Acceptance as defined by the Agreement.

All capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Agreement.

In consideration of the mutual agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

Section 1: Definitions

For the purposes of this Support Agreement, the following definitions shall apply to the respective capitalized terms:

1.1 Coverage Hours. The hours between 8:00 AM and 5:00 PM, Mountain Time, Monday through Friday, excluding regularly scheduled holidays of Spillman.

1.2 Enhancement. Any modification or addition that, when made or added to the Software, changes its utility, efficiency, functional capability, or application, but that does not constitute solely an Error Correction. Spillman may designate Enhancements as minor or major, depending on Spillman's assessment of their value and of the function added to the preexisting Software.

1.3 Error. Any failure of the Software to conform in all material respects to its functional specifications and Documentation as published from time to time by Spillman, subject to the exceptions set forth in Section 4.

1.4 Error Correction. Either a software modification or addition that, when made or added to the Software, establishes material conformity of the Software to the functional specifications, or a procedure or routine that, when observed in the regular operation of the Software, eliminates the practical adverse effect on Customer of such nonconformity. Error Correction services are subject to the exceptions set forth in Section 4.

1.5 Releases. New versions of the Software, including all Error Corrections and Enhancements.

1.6 Response Time. Six (6) or less Coverage Hours, from the time Customer first notifies Spillman of an Error until Spillman initiates work toward development of an Error Correction.

1 1.7 **Support Term.** An initial period of twelve (12) months, commencing on the date of
2 Final System Acceptance as defined by the Agreement. Thereafter, the Support Term shall
3 automatically renew for successive periods of one year each, unless and until terminated
4 pursuant to Section 8 hereof. In no event, however, shall the Support Term extend beyond the
5 term of this Support Agreement.

6 **Section 2: Eligibility For Support**

7 2.1 Spillman's obligation to provide the support and maintenance services described in this
8 Support Agreement with respect to the Software may be terminated pursuant to Section 8.2.2 or
9 suspended, at Spillman's discretion, if at any time during the term of this Support Agreement
10 any of the following requirements are not met:

11 2.1.1 The License for the Software must remain valid and in effect at all times;

12 2.1.2 The Software must be operated on a hardware platform approved by Spillman; and

13 2.1.3 Customer must be current and in compliance with the payment schedule set forth in this
14 Support Agreement.

15 2.2 Spillman may request Customer to appoint a new Spillman Application Administrator if
16 Spillman determines that the acting Spillman Application Administrator does not have the
17 training or experience necessary to communicate effectively with Spillman support personnel.

18 **Section 3: Scope of Services**

19 During the Support Term, Spillman shall render the following services in support of the
20 Software, during Coverage Hours:

21 3.1 Spillman shall maintain a Support Services Control Center capable of receiving from the
22 Spillman Application Administer, by telephone, reports of any software irregularities, and
23 requests for assistance in use of the Software.

24 3.2 Spillman shall maintain a trained staff capable of rendering support services set forth in
25 this Support Agreement.

26 3.3 Spillman shall be responsible for using all reasonable diligence in correcting verifiable
27 and reproducible Errors in the Software when reported to Spillman in accordance with
28 Spillman's standard reporting procedures. Spillman shall, after verifying that such an Error is
29 present, initiate work within the Response Time in a diligent manner toward development of an
30 Error Correction. Following completion of the Error Correction, Spillman shall provide the
31 Error Correction through a "temporary fix" consisting of sufficient programming and operating
32 instructions to implement the Error Correction, and Spillman shall include the Error Correction
33 in all subsequent Releases of the Software. Spillman supports two (2) versions back from the
34 most recent release version. However, Spillman shall not be responsible for correcting Errors in
35 any version of the Software other than the most recent release.

1 3.4 Spillman may, from time to time, issue new Releases of the Software to its customers
2 generally, containing Error Corrections, minor Enhancements, and, in certain instances, if
3 Spillman so elects, major Enhancements. All new Releases, Error Corrections, minor and major
4 Enhancements shall be considered Updates as defined by the Agreement Spillman reserves the
5 right to require additional license fees for major Enhancements: however, Spillman's current
6 practice is to provide all upgrades and Enhancements to customers who have a Support
7 Agreement in effect and are current on support fees. Spillman shall provide Customer with one
8 copy of each new Release, without additional charge. Spillman shall provide reasonable
9 assistance to help Customer install and operate each new Release, provided that such
10 assistance, if required to be provided at Customer's facility, shall be subject to the supplemental
11 charges set forth in Spillman's current Fee Schedule.

12 3.5 Spillman shall respond to Customer's requests for additional services outside the scope
13 of this Support Agreement pertaining to the Software (including, without limitation, data
14 conversion and report-formatting assistance), provided that such assistance, if agreed to be
15 provided, shall be subject to supplemental charges mutually agreed to in writing by Spillman
16 and Customer.

17 **Section 4: Services Not Covered by this Support Agreement**

18 The services identified in this section are specifically NOT covered by this Support Agreement.
19 Spillman strongly recommends that Customer secure a separate support agreement with third
20 party vendors for all non-Spillman products. Spillman may, in its discretion, provide such
21 services to Customer upon request, for an additional fee as the parties may agree in writing.

22 4.1 Support for any third party products including hardware, or support for hardware
23 failure due to the use of any third party vendor products.

24 4.2 Any network failures or problems including, but not limited to, cabling, communication
25 lines, routers, connectors, and network software.

26 4.3 Restoration and/or recovery of data files and/or the operating system.

27 4.4 Any breach of warranty, damages to the Software or its database, data corruption, or
28 support issues, security issues, or performance issues arising out of Licensee's or a third party's
29 use of the Utilities or any software not specifically licensed by Spillman to Licensee for use in
30 connection with the Software. Any assistance provided by Spillman in resolving such problems
31 shall be charged to Customer on a time and materials basis. Additionally, any unauthorized
32 use of the Utilities or other software in connection with the Software by Licensee (or by a third
33 party with Licensee's knowledge) may result, at Spillman's sole option, in voidance of
34 warranties, an increase in the annual maintenance and support fees under this Support
35 Agreement, and/or loss of rights to upgrades under this Support Agreement.

36 4.5 Any damages to or problems with the Software or its database, data corruption, support
37 issues, security issues, or performance issues arising from Customer's utilization of the "write"
38 feature of the ODBC interface to write to or modify the database in any way.

1 4.6 Support for Software problems caused by Customer misuse, alteration or damage to the
2 Software or Customer's combining or merging the Software with any hardware or software not
3 supplied by or identified as compatible by Spillman, customizing of programs, accident,
4 neglect, power surge or failure, lightning, operating environment not in conformance with the
5 manufacturer's specifications (for electric power, air quality, humidity or temperature), or third
6 party software or hardware malfunction.

7 4.7 Supporting, configuring, maintaining, or upgrading the operating system, including, but
8 not limited to, backups, restores, fixes, and patches.

9 4.8 Assistance with problems caused by operating system installation, configuration, errors,
10 maintenance or repair, or using incorrect versions of the operating system.

11 4.9 On-site service visits to Customer's facility unless covered under the Agreement or
12 required in order to fix a major Error(s) in the Software that is due to the fault or error of
13 Spillman, and which Spillman is unable to fix remotely within a reasonable period of time.

14 4.10 Printers connected to the back of terminals/personal computers (commonly called pass-
15 through printing) or network printers are not supported by Spillman.

16 **Section 5: Obligations of Customer**

17 5.1 Customer must maintain and provide, at no cost to Spillman, access to a dedicated voice
18 grade local telephone line, broadband internet connectivity for VPN connection purposes and a
19 Cisco 1811 integrated services router and data set, or equivalent, connected directly to
20 Customer's network, with full access to the server (24 hours per day, 7 days per week) that is
21 used with the Software.

22 5.2 All onsite work shall be pre-approved by the Customer and scheduled by mutual
23 agreement, including needed Customer and Spillman personnel with the proper expertise for
24 the purpose(s) of the onsite work. An authorized representative of Customer must be present
25 when any on-site support is provided. If Customer's representative is not present and does not
26 arrive within a reasonable time of Spillman's scheduled arrival, no work will be performed and
27 Customer will be charged for all expenses incurred relating to the visit.

28 5.3 All communications between Customer and Spillman must be in the English language.

29 5.4 Customer is responsible for providing one or more qualified Spillman Application
30 Administrators as described in Section 6. Customer shall use its best efforts to ensure at least
31 one Spillman Application Administrator (or his/her designee) will be available at all times
32 (however, after-hours availability is required only when and if Customer is requesting after-
33 hours support from Spillman).

34 5.5 Customer is responsible for providing all network and server security.

1 5.6 Customer must provide Spillman with information sufficient for Spillman to duplicate
2 the circumstances under which an Error in the Software became apparent.

3 **Section 6: Spillman Application Administrator Requirements**

4 6.1 The designated Spillman Application Administrator must be certified by Spillman
5 within one year of Customer's go-live date of the Software. The designated administrator must
6 meet the following requirements in order to certify at the basic level:

7 6.1.1 Attend and participate in, and successfully pass the final written and practical
8 examinations from the following courses within one hundred twenty (120) days of installation
9 of the Software:

- 10 i. System Introduction – Inquiry,
- 11 ii. System Introduction – Data Entry & Modification,
- 12 iii. Unix Fundamentals Training (AIX, or HP-UX), (if implementing a Unix server)
- 13 iv. Basic System Administration, and
- 14 v. Spillman training applicable for the Spillman applications used by Customer.

15 6.1.2 Pass the Basic SAA exam within one year after the agency's go-live date.

16 6.2 Customer will be responsible for the costs of such training, including any course fees,
17 travel and lodging expenses.

18 6.3 Contact information for the Spillman Application Administrator(s) must be recorded in
19 Appendix 1 of this Support Agreement. Appendix 1 must be signed by an authorized
20 representative of Customer. Changes to the information recorded in Appendix 1 will require
21 that a new Appendix 1 be completed, signed and filed with Spillman.

22 6.4 Requests for support services received by anyone other than a Spillman Application
23 Administrator as identified in the current Appendix 1 on file with Spillman, will be refused.

24 6.5 Each designated Spillman Application Administrator must be qualified to address, or
25 have other support resources to address, without the aid of Spillman, all problems relating to
26 hardware, software or operating system not directly associated with the Software.

27 **Section 7: Fees and Charges**

28 7.1 Support services for the first 12 months following Final System Acceptance as defined
29 by the Agreement are provided at no cost to the Customer. Anticipated payments for
30 subsequent years are listed in Appendix 2.

31 Customer shall pay Spillman the Support Fee, as set forth in Appendix 2, and any other charges
32 or fees described herein. After the five-year period set forth in Appendix 2, Spillman reserves
33 the right to change its Support Fee, effective upon no less than 90 days prior written notice to
34 Customer. Regular increases in the annual support fee shall not exceed the Consumer Price
35 Index (CPI) average for the previous 12 months except in circumstances as described in this

1 section 7.1. Second-year level support fees, as referenced in Appendix 2, are charged beginning
2 12 months after Final Acceptance. Additionally, adjustments to Support Fees may result from
3 changes in (1) software prices, (2) number of software modules used, (3) an increase in
4 Customer's size (as further described in Section 7.6) , (4) computer hardware, (5) Coverage
5 Hours selected by Customer, or (6) violation of the restrictions set forth in Section 4.4 of this
6 Support Agreement.

7 7.2 Spillman shall invoice Customer for annual Support Fees at the beginning of each
8 contract year. In the event that additional billable work is performed, and that work has been
9 preapproved by Customer, all billable charges and expenses will be invoiced to Customer at the
10 beginning of the month following the month in which they accrued or were incurred.
11 Customer shall pay the undisputed invoiced amounts immediately upon receipt of such
12 invoices. Any undisputed invoice amount not paid within thirty (30) days after the invoice date
13 shall bear interest at the rate of one-and-one-half percent (1.5%) per month (18% per year) or the
14 highest rate allowed by applicable law, whichever is less.

15 7.3 Customer shall be responsible for and agrees to pay the fees and charges incurred for
16 procuring, installing, and maintaining all equipment, telephone lines, modems,
17 communications interfaces, networks and other products necessary to operate the Licensed
18 Software.

19 7.4 Customer agrees to pay additional charges according to the Spillman Fee Schedule for
20 all work required by Customer and performed outside of Coverage Hours unless the work
21 required is the result of a Spillman upgrade or patch that causes a P0 or P1 defect as described
22 in Exhibit A , Statement of Work. These charges are applicable for any work performed outside
23 of the Coverage Hours, REGARDLESS OF THE CAUSE, even if the requested work was
24 reported and/or initiated during normal Coverage Hours.

25 7.5 Should Customer request onsite support services outside the scope of this Support
26 Agreement or the Agreement, Customer shall reimburse Spillman for all labor, travel, and
27 related expenses incurred by Spillman in providing such support services, except as provided in
28 Section 4.9.

29 7.6 Additional Support Fees are also due if there is a significant increase in Customer's size
30 with respect to use of the Software or use exceeds the License granted under the Agreement. An
31 increase in size may arise either out of Customer's internal growth or out of a Host
32 Agency/Shared Agency arrangement as described in Section 7.4 of the Agreement and the
33 shared agency exhibit, if applicable. Relevant factors include number of employees, number of
34 dispatchers and/or number of jail beds. Payment of such additional Support Fees is due within
35 thirty (30) days of the date of the invoice for such fees. Such fees will be prorated, based upon
36 when during the contract year the increase in Customer's size occurred.

37 **Section 8: Termination**

1 8.1 This Support Agreement shall terminate (1) due to non-payment of the annual
2 maintenance fee if payment is not received within forty-five days of the invoice due date, or (2)
3 if Customer's license of the Software is terminated pursuant to the terms of the Agreement
4 (after the end of any applicable transition period).

5 8.2 Either party may terminate this Support Agreement as follows:

6 8.2.1 If either Spillman or Customer provides a written notice to the other party, at least 90
7 days prior to the end of the then-current Support Term, of its intent to terminate this Support
8 Agreement at the end of such Support Term; or

9 8.2.2 Upon 30 days prior written notice, if the other party has materially breached any
10 provision of this Support Agreement and the offending party has not cured such breach within
11 the 30-day notice period.

12 8.3 Following termination of this Support Agreement, Spillman shall promptly refund to
13 Customer the prorated amount of maintenance fees paid but not earned by Spillman, if this
14 Support Agreement was terminated by Customer due to a breach by Spillman under Section
15 8.2.2. Customer shall immediately pay Spillman for any outstanding undisputed invoices.

16 8.4 Effect of Termination of the Agreement. If and when the Agreement is terminated, then for
17 so long as Customer continues to have a license to the Software (including any survival period
18 of Sections 6 and 7 and any transition period), Spillman agrees that it will not terminate this
19 Support Agreement other than for non-payment under Section 8.1 or pursuant to the terms of
20 Section 8.2.

21 **Section 9: General**

22 9.1 The terms of Sections 14, 16, 17, 20 and 24 (excluding 24.5) of the Agreement are hereby
23 incorporated into this Support Agreement by reference.

24 9.2 Assignment. Customer may not assign or transfer this Support Agreement or any of its
25 rights or duties hereunder to any third party without Spillman's prior written consent, which
26 shall not be unreasonably withheld. Spillman may not assign or transfer this Support
27 Agreement or any of its rights or duties hereunder to any third party without Customer's prior
28 written consent, which shall not be unreasonably withheld, except in connection with a
29 permitted assignment of the Agreement.

1 Tracy Police Department (Customer)

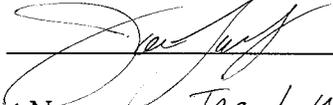
2 By: _____

3 Print Name: _____

4 Title: _____

5 Date: _____

6 Spillman Technologies, Inc.

7 By:  _____

8 Print Name: Joe Lunt

9 Title: VP Sales & Marketing

10 Date: 02-22-12

11

1 **Appendix 1**

2 **Spillman Application Administrator(s)**
3 **Contact Information**

4 Name: _____
5 Phone: _____
6 Cell: _____
7 Fax: _____
8 Pager: _____
9 Email: _____

10 Name: _____
11 Phone: _____
12 Cell: _____
13 Fax: _____
14 Pager: _____
15 Email: _____

16 Name: _____
17 Phone: _____
18 Cell: _____
19 Fax: _____
20 Pager: _____
21 Email: _____
22

Appendix 2

Fee Schedule

1
2
3
4
5
6
7
8

Year	Amount Due
<u>Year 1</u>	<u>No Charge</u>
<u>Year 2</u>	<u>\$158,451</u>
<u>Year 3</u>	<u>\$163,205</u>
<u>Year 4</u>	<u>\$168,101</u>
<u>Year 5</u>	<u>\$173,144</u>

1
2
3
4
5
6
7
8
9
10
11
12

Exhibit H

Pricing Summary and Detail



4625 Lake Park Blvd.
Salt Lake City, UT 84120
801.902.1200
fax 801.902.1210

13
14
15
16
17
18

Pricing Summary and Detail

Contact: Sgt. Steven Beukelman
Tracy Police Department
1000 Civic Center Drive
Tracy, California 95376

Agreement Preparation Date: 08/09/11
Expiration Date: 03/30/12
Salesman: Ryan Montgomery

19

Section 1: Summary

20	Computer Aided Dispatch (CAD)	\$138,630
21		
22	Law Records Management System (RMS)	\$422,855
23		
24	Automated Field Reporting	\$46,775
25		
26	Mobile Data	\$177,707
27		
28	Handheld	\$101,000
29		
30	Interfaces	\$597,460
31		
32	Third Party Software	\$5,000
33		
34	Hardware	\$273,558
35		
36	Professional Services	\$389,472
37		
38		
39	Grand Total	\$2,152,457
40	Discount	-\$65,000
41	Adjusted Total	\$2,087,457
42		
43	8.25% Sales Tax	\$172,215
44	Adjusted Grand Total	\$2,259,672

1 **Section 2: Software**

2

3 **Computer Aided Dispatch (CAD)**

Software Module	Cost
Computer Aided Dispatch	\$95,575
CAD Mapping	\$43,055
Total CAD Package	\$138,630

4

5

6

7

8

9 **Records Management System (RMS)**

Software Module	Cost
Integrated Hub	\$113,000
Law Records (including UCR)	\$54,400
Pin Mapping	\$14,908
Imaging	\$24,106
Evidence Management with Barcoding	\$23,039
Alarm Tracking and Billing	\$14,908
Traffic Information	\$14,387
License and Permits	\$14,387
Premises Information	\$25,750
Hazardous Materials	\$4,833
Vehicle Impound	\$14,387
InSight	\$25,750
Spillman Dashboard	\$35,700
Spillman Touch (Prerequisite - (Hardware not included)	\$35,000
Pawn Property	\$8,300
Total RMS Package	422,855

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29 **Automated Field Reporting (AFR)**

Software Module	Qty	Cost
Mobile Law Form	45	\$46,775
Total AFR Package		\$46,775

30

31

32

33

34 **Mobile Data Package**

Software Module	Qty	Cost
Mobile RMS Queries	45	\$45,044
Mobile CLETS/NCIC Queries	45	\$15,535
Mobile Voiceless Dispatch	45	\$58,564
Mobile AVL and Mapping	45	\$58,564
Total Mobile Data Package		\$177,707

35

36

37

38

39

40

41

42 **Mobile Handheld Package**

Software Module	QTY	Cost
Mobile RMS Queries	25	\$11,750
Mobile CLETS/NCIC Queries	25	\$4,375
Mobile DL Scanning	25	\$12,385
Mobile CHP 555 Form	25	\$36,245
Mobile Citation Form	25	\$36,245
Total Handheld Package		\$101,000

43

44

45

46

47

48

49

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Interfaces and Reports (as defined per Exhibit B)		
Software Module	Cost	Maintenance*
State Link - CLETS & National Queries Interface (Direct Connect)	\$53,000	Included
E911 Interface	\$26,000	Included
Hip Link Paging Interface (up to 50 devices)	\$40,000	Included
Livescan Interface (2 machines)	\$55,300	Included
COP Logic Interface	\$9,500	\$1,960
Pictometry Software and Services	\$30,000	2 years Included
Pictometry Interface	\$14,060	\$2,980
Higher Ground Interface (Fisher interface)	\$60,000	\$6,000
Chameleon Interface (Fisher interface)	\$37,500	\$3,750
SWITRS Interface	\$60,000	\$6,000
LAWS InSight interface (Fisher InSight Query)	\$50,700	\$5,070
Probation Case Management Systyem InSight Interface (Fisher InSight Query)	\$76,400	\$7,640
E-Citation Submission to Court Interface	\$70,000	\$7,000
San Joaquin County Booking/Arrest Report I	\$15,000	\$1,500
California DOJ; Gun Release Report (Spillman Report)		Included
California DOJ; ALPS Report (Spillman Report)		Included
California DOJ; Physical Evidence Submission Report (Spillman Report)		Included
Total Interfaces and Reports	\$597,460	\$41,900

*Where maintenance is quoted it is quoted as second year maintnenace, if it states "Included" that means it is included in section 5 as second year maintenance. All first year maintenance is included.

Third Party Software	
Description	Cost
ArcGIS Server 10 Workgroup Installation	\$5,000
Network Analyst	Included
Pictometry Software and services shown above with the Pictometry Interface	
Server Operating Systems	Included
Third Party Software Costs	\$5,000

See Section 7: Notes

1 **Section 3: Hardware**

Server Hardware Costs			
Production Server (Stratus) Hardware			
Description	Qty	Part #	
Production Server	1		\$65,000
2 years "Total Assurance" Support	1		Included
P6310-2S ftServer 6310 Rack mountable, 2-way, DMR, two 2.93 GHz hex-core processors	1	P6310-2S	
ftServer System Software for Windows version 7	1	S0796	
Windows Server 2008 R2 Multilingual Enterprise Edition R2, 25 CAL	1	S0799EE	
Rapid Disk Resync	1	S0426F	
4GB DDR3-1333 Dual-rank DIMM	16	M246	
Disk Drive Blank for ftServer 2600, 4500, 6300 family	8	AS391	
146 GB 15K SAS 2.5" HDD	8	D342	
ASN Modem for ftServer	1	C660	
US/JP 115V/100V-15A NEMA 5-15P 15 feet, single cord	2	B50104F	
2.0 meter jumper cord pair	1	B50502F	
3 year Stratus Technologies ftServer Hardware Warranty Agreement	1	R531F	
Stratus ftServer 2600, 4500 and 6300 Systems: Installation Guide	1	R640	
Read Me First: Unpacking ftServer 2600, 4500 and 6300 Systems	1	R641	
Production Server and Warranty Cost			\$65,000
ArcGIS Server Hardware			
Part Number	Description	Qty	Cost
583914-B21	HP DL380G7 SFF CTO CHASSIS	1	
583914-B21 ABA	U.S. - ENGLISH LOCALIZATION	1	
587476-L21	HP E5620 DL380G7 FIO KIT	1	
500656-B21	HP 2GB 2RX8 PC3-10600R-9 KIT	3	
500656-B21 0D1	FACTORY INTEGRATED	3	
507125-B21	HP 146GB 6G SAS 10K 2.5IN DP ENT HDD	4	
507125-B21 0D1	FACTORY INTEGRATED	4	
481043-B21	HP SLIM 12.7MM SATA DVDRW OPTICAL KIT	1	
481043-B21 0D1	FACTORY INTEGRATED	1	
494323-B21	HP DL38X G5P/G6/G7 PCI-E X16 RSR KIT	1	
494323-B21 0D1	FACTORY INTEGRATED	1	
462828-B21	HP P212/ZM SMART ARRAY CONTROLLER	1	
462828-B21 0D1	FACTORY INTEGRATED	1	
AF556A	HP 1.83M 10A C13-UL US PWR CORD	2	
AF556A 0D1	FACTORY INTEGRATED	2	
503296-B21	HP 460W CS GOLD HT PLG PWR SUPPLY KIT	2	
503296-B21 0D1	FACTORY INTEGRATED	2	
HA110A3	HP 3Y SUPPORT PLUS 24 SVC	1	
HA110A3 7G3	PROLIANT SERVERDL38X HWSUPPORT	1	
HA113A1	HP INSTALLATION SERVICE	1	
HA113A1 5A6	300 SERIES HW INSTALLATION SVC	1	
HA110A3	HP 3Y SUPPORT PLUS 24 SVC	1	
ArcGIS Server Cost			\$5,753

InSight Server Hardware

Part Number	Description	Qty	Cost
583914-B21	HP DL380G7 SFF CTO CHASSIS	1	
583914-B21 ABA	U.S. - ENGLISH LOCALIZATION	1	
587480-L21	HP E5640 DL380G7 FIO KIT	1	
500658-B21	HP 4GB 2RX4 PC3-10600R-9 KIT	2	
500658-B21 0D1	FACTORY INTEGRATED	2	
507127-B21	HP 300GB 6G SAS 10K 2.5IN DP ENT HDD	6	
507127-B21 0D1	FACTORY INTEGRATED	6	
481041-B21	HP SLIM 12.7MM SATA DVD OPTICAL KIT	1	
481041-B21 0D1	FACTORY INTEGRATED	1	
462967-B21	HP 512MB P-SERIES BBWC UPGRADE	1	
462967-B21 0D1	FACTORY INTEGRATED	1	
AF556A	HP 1.83M 10A C13-UL US PWR CORD	2	
AF556A 0D1	FACTORY INTEGRATED	2	
412648-B21	HP NC360T PCIE DP GIGABIT SERVER ADAPTER	1	
412648-B21 0D1	FACTORY INTEGRATED	1	
512327-B21	HP 750W CS GOLD HT PLG PWR SUPPLY KIT	2	
512327-B21 0D1	FACTORY INTEGRATED	2	
HA110A3	HP 3Y SUPPORT PLUS 24 SVC	1	
HA110A3 7G3	PROLIANT SERVERDL38X HWSUPPORT	1	
HA113A1	HP INSTALLATION SERVICE	1	
HA113A1 5A6	300 SERIES HW INSTALLATION SVC	1	
BC315AAE	RHEL 2SKT 1 GUEST 24X7 1YR LIC E-LTU	1	
InSight Server Cost			\$8,949

Hip Link Server Hardware

Part Number	Description	Qty	Cost
583914-B21	HP DL380G7 SFF CTO CHASSIS	1	
583914-B21 ABA	U.S. - ENGLISH LOCALIZATION	1	
587476-L21	HP E5620 DL380G7 FIO KIT	1	
500656-B21	HP 2GB 2RX8 PC3-10600R-9 KIT	3	
500656-B21 0D1	FACTORY INTEGRATED	3	
507125-B21	HP 146GB 6G SAS 10K 2.5IN DP ENT HDD	4	
507125-B21 0D1	FACTORY INTEGRATED	4	
481043-B21	HP SLIM 12.7MM SATA DVDRW OPTICAL KIT	1	
481043-B21 0D1	FACTORY INTEGRATED	1	
494323-B21	HP DL38X G5P/G6/G7 PCI-E X16 RSR KIT	1	
494323-B21 0D1	FACTORY INTEGRATED	1	
462828-B21	HP P212/ZM SMART ARRAY CONTROLLER	1	
462828-B21 0D1	FACTORY INTEGRATED	1	
AF556A	HP 1.83M 10A C13-UL US PWR CORD	2	
AF556A 0D1	FACTORY INTEGRATED	2	
503296-B21	HP 460W CS GOLD HT PLG PWR SUPPLY KIT	2	
503296-B21 0D1	FACTORY INTEGRATED	2	
HA110A3	HP 3Y SUPPORT PLUS 24 SVC	1	
HA110A3 7G3	PROLIANT SERVERDL38X HWSUPPORT	1	
HA113A1	HP INSTALLATION SERVICE	1	
HA113A1 5A6	300 SERIES HW INSTALLATION SVC	1	
HA110A3	HP 3Y SUPPORT PLUS 24 SVC	1	
Hip Link Server Cost			Included

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

Dispatch Workstations Hardware				
Description			Qty	TOTAL
HP Z600			7	\$34,902
Windows® 7 Professional 64				
Intel Xeon E5645 2.40 12MB/1333 6C CPU-1				
4GB (2x2GB) DDR3-1333 ECC				
AMD FirePro V7900 2GB Graphics				
250GB SATA 7200				
16X DVD-ROM SATA				
ZR24w 24-inch Widescreen LCD Monitor				
ZR24w 24-inch Widescreen LCD Monitor				
PS/2 Standard Keyboard				
PS/2 Optical Scroll Mouse				
9x5 next business day onsite - 4 yrs, workstation + monitor			7	Included
Dispatch Workstations Total				\$34,902
Handheld Subsystem Hardware				
Description			Qty	TOTAL
Panasonic U1 Ultra			25	\$117,500
Magstripe Readers			25	\$9,425
Printers			25	\$24,375
Handheld Subsystem Hardware Total				\$151,300
Other Hardware				
Description	Manufacturer	Model	Qty	Cost
Support Modem	Cisco	1811	1	\$900
E911 Etherlite	Digi Etherlite	2	1	\$500
Evidence Barcode Scanner	Data Logic Work Station Scanner	DG4330	1	\$218
Audit Device Evidence Barcode Scanner	Data Logic Audit Scanner	Memoir	1	\$926
Evidence Barcode Printer	Dymo Label Writer	450	1	\$140
Evidence Barcode Lables	Dymo	NA	1	\$20
10/100/1000POE24port swch	Cisco	3560	1	\$2,500
Fiberoptic transceivers		GLC SX MM SFP	2	\$250
Booking Photo Camera	Panasonic	WV-SC385	2	\$2,200
Other Hardware Costs				\$7,654
Total Hardware Package				\$273,558

See Section 7: Notes

1 **Section 4: Professional Services**

2 For more information and detail regarding professional services included in section 4 please see Exhibit A: Statement of Work and
 3 Exhibits D: Training Plan
 4

Professional Services	
Description	Cost
Project Management	\$63,136
Project Management services	
7 on site PM meeting visits (or more if deemed necessary by both parties)	
1 project team training trip	
1 trip for Go-Live	
Installation	\$27,296
Installation services	
1 trip general system installation	
1 trip client install (CAD workstations, Mobile/AFR Client Software, Records Client Software)	
Training	\$250,560
3 Geobase trips	
Project Analysis and Planning	
1 Project Team Training trip	
1 Spillman Application Administration (SAA) trip	
1 Law Administrative Training trip	
Spillman Mobile Administration (provided with Law Admin Training Trip)	
1 CAD Administrative Training trip	
Spillman Mapping Administration (provided with CAD Admin Training Trip)	
3 Trips CAD training	
1 Trip Mobile/AFR training	
1 Trip Handheld Subsystem Services and Training	
7 Trips Hub and Law Records training	
6 Go-Live assistance trips	
3 Refresher Training trips	
Network evaluation	\$48,480
Professional Services	\$389,472

32 See Section 7: Notes
 33
 34

35 **Section 5: Support and Maintenance**

36 Second year maintenance fees are not included in the Purchase Price of this Agreement and is provided here as reference only.
 Warranty Period fees are included for all modules and interfaces listed in Section 2: Software. Second-year maintenance fees are
 charged at the end of the 1 year Warranty Period beginning 12 months from Final Acceptance.

Support and Maintenance	
Description	Cost
Year 1 (Warranty Period)	Included
Year 2 estimate	\$158,451
Year 3 estimate	\$163,205
Year 4 estimate	\$168,101
Year 5 estimate	\$173,144

45 See Section 7: Notes
 46

1 **Section 6: Options**

2 Interface Options listed in Section 6 that are desired to be added to the project must be determined and agreed upon prior to the
 3 completion of Phase I. These additions will take place via a Change Order and will be subject to all terms and conditions contained
 4 within the contract documents. Any additions desired after commencement of Phase II are subject to negotiation.

Options			
Description			Cost
Data Conversion			
Data Conversion - West Covina and Access Property/Evidence into Spillman			\$94,800
Interface			
San Joaquin County Booking/Arrest Report II			\$118,000
Data Works Interface			\$118,800
Data Works Interface Maintenance			\$11,880
CalPhoto Interface (As alternative to Data Works only)			\$60,000
CalPhoto Interface Maintenance			\$6,000
Software, Hardware, and Pre-Paid Maintenance			
Mobile Data Options and Maintenance			
Mobile RMS Queries	(maintenance = \$40/ license)	1	\$470
Mobile Voiceless Dispatch	(maintenance = \$40/ license)	1	\$350
Mobile AVL and Mapping	(maintenance = \$40/ license)	1	\$585
Mobile AFR Options and Maintenance			
Mobile Field Interviews	Initial Software License/Services Cost		\$12,680
Mobile Field Interviews	(maintenance = \$40/ license)	1	\$350
Mobile 555 Form	(maintenance = \$40/ license)	1	\$585
Mobile Citations	(maintenance = \$40/ license)	1	\$585
Mobile DL Scanning	(maintenance = \$40/ license)	1	\$175
Drivers License Scanner Hardware - E-Seek M250		1	\$400
Mobile AFR options Services and Training			\$9,280
Handheld Modules and Hardware (cost each)			
Mobile RMS Queries	(maintenance = \$40/ license)	1	\$470
Mobile CLETS/NCIC Queries	(maintenance = \$40/ license)	1	\$175
Mobile DL Scanning	(maintenance = \$40/ license)	1	\$175
Mobile CHP 555 Form	(maintenance = \$40/ license)	1	\$585
Mobile Citation Form	(maintenance = \$40/ license)	1	\$585
Panasonic UI Ultra		1	\$4,700
Magstripe Readers		1	\$377
Printers		1	\$975
Personnel Management			\$30,702
Equipment Maintenance			\$17,153
Fleet Maintenance			\$17,153
Inventory Management			\$12,554

HP Failover Solution			
Server, Software, Installation Services			\$46,904
Failover Server Specifications			
583914-B21	HP DL380G7 SFF CTO CHASSIS	1	
583914-B21 ABA	U.S. - ENGLISH LOCALIZATION	1	
633410-L21	HP DL380G7 X5690 FIO KIT	1	
633410-B21	HP DL380G7 X5690 KIT	1	
633410-B21 0D1	FACTORY INTEGRATED	1	
593339-B21	HP 4GB 1RX4 PC3-10600R-9 KIT	12	
593339-B21 0D1	FACTORY INTEGRATED	12	
507127-B21	HP 300GB 6G SAS 10K 2.5IN DP ENT HDD	8	
507127-B21 0D1	FACTORY INTEGRATED	8	
481041-B21	HP SLIM 12.7MM SATA DVD OPTICAL KIT	1	
481041-B21 0D1	FACTORY INTEGRATED	1	
500579-B21	HP DL380G6/G7 PCI-E 1X8 2X4 RISER KIT	1	
500579-B21 0D1	FACTORY INTEGRATED	1	
462967-B21	HP 512MB P-SERIES BBWC UPGRADE	1	
462967-B21 0D1	FACTORY INTEGRATED	1	
512327-B21	HP 750W CS GOLD HT PLG PWR SUPPLY KIT	2	
512327-B21 0D1	FACTORY INTEGRATED	2	
534516-B21	HP PL FOUNDATION PK SINGLE REL FIO SW	1	
HA104A3	HP 3Y 4H 24X7 HW SUPPORT	1	
HA104A3 7G3	PROLIANT SERVERDL38X HWSUPPORT	1	
HA113A1	HP INSTALLATION SERVICE	1	
HA113A1 5A6	300 SERIES HW INSTALLATION SVC	1	
AE470A	HP SAS MIN-MIN 1 X 2M CABLE ASSY KIT	1	
HA113A1 5BW	PROLIANT ADD ON OPTIONS INSTALLATION SVC	1	
Discount if do Single Go-Live instead of a Phased Go-Live			
Reduce by 3 Go-Live assistance trips			\$27,840
Prepaid Maintenance			
Additional years Prepaid Maintenance/yr (Cost will be adjusted accordingly to reflect change orders)			\$153,698
Options Total			\$748,986

Section 7: Notes

The Purchase Price is valid only if all listed products and services are purchased as a complete package. The Purchase Price includes maintenance coverage described in Exhibit G, Maintenance and Support Agreement. Applicable maintenance fees will begin after Warranty Period.

Exhibit I: Payment Schedule

When Spillman completes a Statement of Work (SOW) Task or applicable portion within a Task for which payment is due under the Payment Schedule in Table 1 below, Spillman shall be entitled to invoice for payment. The Customer shall pay Spillman within thirty-five (35) days after receipt of such invoice. If the Customer wants to dispute an invoice, it must notify Spillman within fifteen (15) calendar days of receiving the invoice.

Table 1: Payment Schedule		
Pre-Implementation Meeting	SOW Task 1	\$25,000
Project Analysis and Planning Meeting	SOW Task 2	\$25,000
Network Evaluation	SOW Task 2	\$48,480
Order Third-Party Products	SOW Task 6	\$23,250
Server Hardware Delivery	SOW Task 9	\$86,648
Arc GIS Server Hardware Delivery	SOW Task 9	\$5,753
InSight Server Hardware Delivery	SOW Task 9	\$8,949
Hip Link Server Hardware Delivery	SOW Task 9	\$5,753
Dispatch Workstation Hardware Delivery	SOW Task 9	\$37,072
Other Hardware as Delivered	SOW Task 9	\$5,454
Install CAD software on the server	SOW Task 10	\$69,315
Install RMS software on the server	SOW Task 10	\$211,428
Install AFRS software on the server	SOW Task 10	\$23,388
Install Mobile Data software on the server	SOW Task 10	\$88,854
Install Mobile Handheld Solution on the server	SOW Task 10	\$64,939
Installation Services	SOW Task 10	\$13,648
Training	SOW Task 16	\$125,280
Go-Live	SOW Task 17	\$261,627
Total Paid up to Go-Live		\$1,129,836
Final System Acceptance	SOW Task 18	\$1,129,836
Total Payments to Spillman (including tax)		\$2,259,672

Exhibit J: Escrow Agreement



Effective Date	Sept. 3, 2011
Master Deposit Account Number	39894
*Effective Date and Deposit Account Number to be supplied by Iron Mountain only.	

Three-Party Master Depositor Escrow Service Agreement

1. Introduction

This Escrow Service Agreement (the "Agreement") is entered into by and between Spillman Technologies, Inc. ("Depositor"), and by any additional party enrolling as a "Beneficiary" upon execution of the Beneficiary Enrollment Form attached as Exhibit E to this Agreement and by Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain"). Beneficiary, Depositor, and Iron Mountain may be referred to individually as a "Party" or collectively as the "Parties" throughout this Agreement.

- (a) The use of the term services in this Agreement shall refer to Iron Mountain services that facilitate the creation, management, and enforcement of software or other technology escrow accounts as described in Exhibit A attached hereto ("Services"). A Party shall request Services under this Agreement by submitting a work request for certain Iron Mountain Services ("Work Request") via written instruction or the online portal maintained at the website located at www.ironmountainconnect.com or other websites owned or controlled by Iron Mountain that are linked to that website (collectively the "Iron Mountain Website").
- (b) The Beneficiary and Depositor have, or will have, entered into a license agreement or other agreement ("License Agreement") conveying intellectual property rights to the Beneficiary, and the Parties intend this Agreement to be considered as supplementary to such agreement, pursuant to Title 11 United States [Bankruptcy] Code, Section 365(n).

2. Depositor Responsibilities and Representations

- (a) Depositor shall make an initial deposit that is complete and functional of all proprietary technology and other materials covered under this Agreement ("Deposit Material") to Iron Mountain within thirty (30) days of the Effective Date. Depositor may also update Deposit Material from time to time during the Term (as defined below) of this Agreement provided a minimum of one (1) complete and functional copy of Deposit Material is deposited with Iron Mountain at all times. At the time of each deposit or update, Depositor will provide an accurate and complete description of all Deposit Material sent to Iron Mountain using the form attached hereto as Exhibit B.
- (b) Depositor represents that it lawfully possesses all Deposit Material provided to Iron Mountain under this Agreement and that any current or future Deposit Material liens or encumbrances will not prohibit, limit, or alter the rights and obligations of Iron Mountain under this Agreement. Depositor warrants that with respect to the Deposit Material, Iron Mountain's proper administration of this Agreement will not violate the rights of any third parties.
- (c) Depositor represents that all Deposit Material is readable and useable in its then current form; if any portion of such Deposit Material is encrypted, the necessary decryption tools and keys to read such material are deposited contemporaneously.
- (d) Depositor agrees, upon request by Iron Mountain, in support of Beneficiary's request for verification Services, to promptly complete and return the Escrow Deposit Questionnaire attached hereto as Exhibit Q. Depositor consents to Iron Mountain's performance of any level(s) of verification Services described in Exhibit A attached hereto and Depositor further consents to Iron Mountain's use of a subcontractor to perform verification Services. Any such subcontractor shall be bound by the same confidentiality obligations as Iron Mountain and shall not be a direct competitor to either Depositor or Beneficiary. Iron Mountain shall be responsible for the delivery of Services of any such subcontractor as if Iron Mountain had performed the Services. Depositor represents that all Deposit Material is provided with all rights necessary for Iron Mountain to verify such proprietary technology and materials upon receipt of a Work Request for such Services or agrees to use commercially reasonable efforts to provide Iron Mountain with any necessary use rights or permissions to use materials necessary to perform verification of the Deposit Material. Depositor agrees to reasonably cooperate with Iron Mountain by providing reasonable access to its technical personnel for verification Services whenever reasonably necessary.

3. Beneficiary Responsibilities and Representations

- (a) Beneficiary acknowledges that, as between Iron Mountain and Beneficiary, Iron Mountain's obligation is to maintain the Deposit Material as delivered by the Depositor and that, other than Iron Mountain's inspection of the Deposit Material (as described in Section 4) and the performance of any of the optional verification Services listed in Exhibit A, Iron Mountain has no other obligation regarding the completeness, accuracy, or functionality of the Deposit Material.

- (b) Beneficiary may submit a verification Work Request to Iron Mountain for one or more of the Services defined in Exhibit A attached hereto and consents to Iron Mountain's use of a subcontractor if needed to provide such Services. Beneficiary warrants that Iron Mountain's use of any materials supplied by Beneficiary to perform the verification Services described in Exhibit A is lawful and does not violate the rights of any third parties.

4. Iron Mountain Responsibilities and Representations

- (a) Iron Mountain agrees to use commercially reasonable efforts to provide the Services requested by Authorized Person(s) (as identified in the "Authorized Person(s)/Notices Table" below) representing the Depositor or Beneficiary in a Work Request. Iron Mountain may reject a Work Request (in whole or in part) that does not contain all required information at any time upon notification to the Party originating the Work Request.
- (b) Iron Mountain will conduct a visual inspection upon receipt of any Deposit Material and associated Exhibit B. If Iron Mountain determines that the Deposit Material does not match the description provided by Depositor represented in Exhibit B, Iron Mountain will notify Depositor of such discrepancy.
- (c) Iron Mountain will provide notice to the Beneficiary of all Deposit Material that is accepted and deposited into the escrow account under this Agreement.
- (d) Iron Mountain will follow the provisions of Exhibit C attached hereto in administering the release of Deposit Material.
- (e) Iron Mountain will work with a Party who submits any verification Work Request for Deposit Material covered under this Agreement to either fulfill any standard verification Services Work Request or develop a custom Statement of Work ("SOW"). Iron Mountain and the requesting Party will mutually agree in writing to an SOW on terms and conditions that include but are not limited to: description of Deposit Material to be tested; description of verification testing; requesting Party responsibilities; Iron Mountain responsibilities; Service Fees; invoice payment instructions; designation of the paying Party; designation of authorized SOW representatives for both the requesting Party and Iron Mountain with name and contact information; and description of any final deliverables prior to the start of any fulfillment activity. After the start of fulfillment activity, each SOW may only be amended or modified in writing with the mutual agreement of both Parties, in accordance with the change control procedures set forth therein. If the verification Services extend beyond those described in Exhibit A, the Depositor shall be a necessary Party to the SOW governing the Services.
- (f) Iron Mountain will hold and protect Deposit Material in physical or electronic vaults that are either owned or under the control of Iron Mountain, unless otherwise agreed to by all the Parties.
- (g) Upon receipt of written instructions by both Depositor and Beneficiary, Iron Mountain will permit the replacement or removal of previously submitted Deposit Material. The Party making such request shall be responsible for getting the other Party to approve the joint instructions. Any Deposit Material that is removed from the deposit account will be either returned to Depositor or destroyed in accordance with Depositor's written instructions.
- (h) Should transport of Deposit Material be necessary in order for Iron Mountain to perform Services requested by Depositor or Beneficiary under this Agreement, Iron Mountain will use a commercially recognized overnight carrier such as Federal Express or United Parcel Service. Iron Mountain will not be responsible for any loss or destruction of, or damage to, such Deposit Material while in the custody of the common carrier.

5. Payment

The Party responsible for payment designated in Exhibit A ("Paying Party") shall pay to Iron Mountain all fees as set forth in the Work Request ("Service Fees"). All Service Fees are due within thirty (30) calendar days from the date of invoice in U.S. currency and are non-refundable. Iron Mountain may update Service Fees with a ninety (90) calendar day written notice to the Paying Party during the Term of this Agreement (as defined below). The Paying Party is liable for any taxes (other than Iron Mountain income taxes) related specifically to Services purchased under this Agreement or shall present to Iron Mountain an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed as a separate item on the invoice. Any Service Fees not collected by Iron Mountain when due shall bear interest until paid at a rate of one percent (1%) per month (12% per annum) or the maximum rate permitted by law, whichever is less. Notwithstanding the non-performance of any obligations of Depositor to deliver Deposit Material under the License Agreement or this Agreement, Iron Mountain is entitled to be paid all Service Fees that accrue during the Term of this Agreement.

6. Term and Termination

- (a) The term of this Agreement is for a period of one (1) year from the Effective Date ("Initial Term") and will automatically renew for additional one (1) year terms ("Renewal Term") (collectively the "Term"). This Agreement shall continue in full force and effect until one of the following events occur: (i) Depositor and Beneficiary provide Iron Mountain with sixty (60) days' prior written joint notice of their intent to terminate this Agreement; (ii) Beneficiary provides Iron Mountain and Depositor with sixty (60) days' prior written notice of its intent to terminate this Agreement; (iii) the Agreement terminates under another provision of this Agreement; or (iv) any time after the Initial Term, Iron Mountain provides sixty (60) days' prior written notice to the Depositor and Beneficiary of Iron Mountain's intent to terminate this Agreement. Effective Date and Deposit Account Number to be supplied by Iron Mountain only. The Effective Date supplied by Iron Mountain and specified above shall be the date Iron Mountain sets up the escrow account.

- (b) Unless the express terms of this Agreement provide otherwise, upon termination of this Agreement, Iron Mountain shall return the Deposit Material to the Depositor. Unless otherwise directed by Depositor, Iron Mountain will use a commercially recognized overnight common carrier such as Federal Express or United Parcel Service to return the Deposit Material to the Depositor. Iron Mountain will not be responsible for any loss or destruction of, or damage to, such Deposit Material while in the custody of the common carrier. If reasonable attempts to return the Deposit Material to Depositor are unsuccessful, Iron Mountain shall destroy the Deposit Material.
- (c) In the event of the nonpayment of undisputed Service Fees owed to Iron Mountain, Iron Mountain shall provide all Parties to this Agreement with written notice of Iron Mountain's intent to terminate this Agreement. Any Party to this Agreement shall have the right to make the payment to Iron Mountain to cure the default. If the past due payment is not received in full by Iron Mountain within thirty (30) calendar days of the date of such written notice, then Iron Mountain shall have the right to terminate this Agreement at any time thereafter by sending written notice to all Parties. Iron Mountain shall have no obligation to perform the Services under this Agreement (except those obligations that survive termination of this Agreement, which includes the confidentiality obligations in Section 9) so long as any undisputed Service Fees due Iron Mountain under this Agreement remain unpaid.

7. Infringement Indemnification

Anything in this Agreement to the contrary notwithstanding, Depositor at its own expense shall defend and hold Iron Mountain fully harmless against any claim or action asserted against Iron Mountain (specifically including costs and reasonable attorneys' fees associated with any such claim or action) to the extent such claim or action is based on an assertion that Iron Mountain's proper administration of this Agreement infringes any patent, copyright, license or other proprietary right of any third party. When Iron Mountain has notice of a claim or action, it shall promptly notify Depositor in writing. At its option, Depositor may elect to control the defense of such claim or action and may elect to enter into a settlement agreement, provided that no such settlement or defense shall include any admission or implication of wrongdoing on the part of Iron Mountain without Iron Mountain's prior written consent, which consent shall not be unreasonably delayed or withheld. Iron Mountain shall have the right to employ separate counsel and participate in the defense of any claim at its own expense.

8. Warranties

- (a) IRON MOUNTAIN WARRANTS ANY AND ALL SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER CONSISTENT WITH THE MEASURES IRON MOUNTAIN TAKES TO PROTECT ITS OWN INFORMATION OF A SIMILAR NATURE, BUT IN NO CASE LESS THAN A REASONABLE LEVEL OF CARE. EXCEPT AS SPECIFIED IN THIS SECTION, ALL CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. AN AGGRIEVED PARTY MUST NOTIFY IRON MOUNTAIN PROMPTLY UPON LEARNING OF ANY CLAIMED BREACH OF ANY WARRANTY AND, TO THE EXTENT ALLOWED BY APPLICABLE LAW, SUCH PARTY'S REMEDY FOR BREACH OF THIS WARRANTY SHALL BE SUBJECT TO THE LIMITATION OF LIABILITY AND CONSEQUENTIAL DAMAGES WAIVER IN THIS AGREEMENT. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.
- (b) Depositor warrants that all Depositor information provided hereunder is accurate and reliable and undertakes to promptly correct and update such Depositor information during the Term of this Agreement.
- (c) Beneficiary warrants that all Beneficiary information provided hereunder is accurate and reliable and undertakes to promptly correct and update such Beneficiary information during the Term of this Agreement.

9. Confidential Information

Iron Mountain shall have the obligation to implement and maintain safeguards designed to protect the confidentiality of the Deposit Material. Except as provided in this Agreement Iron Mountain shall not use or disclose the Deposit Material. Iron Mountain shall not disclose the terms of this Agreement to any third party other than its financial, technical, or legal advisors, or its administrative support service providers. Any such third party shall be bound by the same confidentiality obligations as Iron Mountain. If Iron Mountain receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposit Material, Iron Mountain will promptly notify the Parties to this Agreement unless prohibited by law. After notifying the Parties, Iron Mountain may comply in good faith with such order. It shall be the responsibility of Depositor or Beneficiary to challenge any such order; provided, however, that Iron Mountain does not waive its rights to present its position with respect to any such order. Iron Mountain will cooperate with the Depositor or Beneficiary, as applicable, to support efforts to quash or limit any subpoena, at such Party's expense. Any Party requesting additional assistance shall pay Iron Mountain's standard charges or as quoted upon submission of a detailed request.

10. Limitation of Liability

EXCEPT FOR: (I) LIABILITY FOR DEATH OR BODILY INJURY; (II) PROVEN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR (III) THE INFRINGEMENT INDEMNIFICATION OBLIGATIONS OF SECTION 7, ALL OTHER LIABILITY RELATED TO THIS AGREEMENT, IF ANY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, OF ANY PARTY

TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT EQUAL TO ONE YEAR OF FEES PAID TO IRON MOUNTAIN UNDER THIS AGREEMENT. IF CLAIM OR LOSS IS MADE IN RELATION TO A SPECIFIC DEPOSIT OR DEPOSITS, SUCH LIABILITY SHALL BE LIMITED TO THE FEES RELATED SPECIFICALLY TO SUCH DEPOSITS.

11. Consequential Damages Waiver

IN NO EVENT SHALL ANY PARTY TO THIS AGREEMENT BE LIABLE TO ANOTHER PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOST PROFITS, ANY COSTS OR EXPENSES FOR THE PROCUREMENT OF SUBSTITUTE SERVICES (EXCLUDING SUBSTITUTE ESCROW SERVICES), OR ANY OTHER INDIRECT DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE EVEN IF THE POSSIBILITY THEREOF MAY BE KNOWN IN ADVANCE TO ONE OR MORE PARTIES.

12. General

- (a) Incorporation of Work Requests. All valid Depositor and Beneficiary Work Requests are incorporated into this Agreement.
- (b) Purchase Orders. In the event that the Paying Party issues a purchase order or other instrument used to pay Service Fees to Iron Mountain, any terms and conditions set forth in the purchase order which constitute terms and conditions which are in addition to those set forth in this Agreement or which establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by Iron Mountain.
- (c) Right to Make Copies. Iron Mountain shall have the right to make copies of all Deposit Material as reasonably necessary to perform the Services. Iron Mountain shall copy all copyright, nondisclosure, and other proprietary notices and titles contained on Deposit Material onto any copies made by Iron Mountain. Any copying expenses incurred by Iron Mountain as a result of a Work Request to copy will be borne by the Party requesting the copies. Iron Mountain may request Depositor's reasonable cooperation in promptly copying Deposit Material in order for Iron Mountain to perform this Agreement.
- (d) Choice of Law. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the Commonwealth of Massachusetts, USA, as if performed wholly within the state and without giving effect to the principles of conflicts of laws.
- (e) Authorized Person(s). Depositor and Beneficiary must each authorize and designate one person whose actions will legally bind such Party ("Authorized Person" who shall be identified in the Authorized Person(s) Notices Table of this Agreement or such Party's legal representative) and who may manage the Iron Mountain escrow account through the Iron Mountain website or written instruction. The Authorized Person for each the Depositor and Beneficiary will maintain the accuracy of their name and contact information provided to Iron Mountain during the Term of this Agreement.
- (f) Right to Rely on Instructions. With respect to release of Deposit Material or the destruction of Deposit Material, Iron Mountain shall rely on instructions from a Party's Authorized Person(s). In all other cases, Iron Mountain may act in reliance upon any instruction, instrument, or signature reasonably believed by Iron Mountain to be genuine and from an Authorized Person(s), officer, or other employee of a Party. Iron Mountain may assume that such representative of a Party to this Agreement who gives any written notice, request, or instruction has the authority to do so. Iron Mountain will not be required to inquire into the truth of, or evaluate the merit of, any statement or representation contained in any notice or document reasonably believed to be from such representative.
- (g) Force Majeure. No Party shall be liable for any delay or failure in performance due to events outside the defaulting Party's reasonable control, including without limitation acts of God, earthquake, labor disputes, shortages of supplies, riots, war, acts of terrorism, fire, epidemics, or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the excused Party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.
- (h) Notices. All notices regarding Exhibit C (Release of Deposit Material) shall be sent by commercial express mail or other commercially appropriate means that provide prompt delivery and require proof of delivery. All other correspondence, including invoices, payments, and other documents and communications, may be sent electronically or via regular mail. The Parties shall have the right to rely on the last known address of the other Parties. Any correctly addressed notice to the last known address of the other Parties that is refused, unclaimed, or undeliverable shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by electronic mail, the postal authorities, or through messenger or commercial express delivery service.
- (i) No Waiver. No waiver of any right under this Agreement by any Party shall constitute a subsequent waiver of that or any other right under this Agreement.
- (j) Assignment. No assignment of this Agreement by Depositor or Beneficiary or any rights or obligations of Depositor or Beneficiary under this Agreement is permitted without the written consent of Iron Mountain, which shall not be unreasonably withheld or delayed. Iron Mountain shall have no obligation in performing this Agreement to recognize any successor or assign of Depositor or Beneficiary unless Iron Mountain receives clear, authoritative and conclusive written evidence of the change of Parties.
- (k) Severability. In the event any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. If this paragraph

becomes applicable and, as a result, the value of this Agreement is materially impaired for any Party, as determined by such Party in its sole discretion, then the affected Party may terminate this Agreement by written notice to the other Parties.

- (l) **Independent Contractor Relationship.** Depositor and Beneficiary understand, acknowledge, and agree that Iron Mountain's relationship with Depositor and Beneficiary will be that of an independent contractor and that nothing in this Agreement is intended to or should be construed to create a partnership, joint venture, or employment relationship.
- (m) **Attorneys' Fees.** Any costs and fees incurred by Iron Mountain in the performance of obligations imposed upon Iron Mountain solely by virtue of its role as escrow service provider including, without limitation, compliance with subpoenas, court orders, and discovery requests shall, unless adjudged otherwise, be divided equally and paid by Depositor and Beneficiary. In any suit or proceeding between the Parties relating to this Agreement, the prevailing Party will have the right to recover from the other(s) its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and shall survive and not be merged into any such judgment.
- (n) **No Agency.** No Party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other Parties or bind the other Parties in any respect whatsoever.
- (o) **Disputes.** Any dispute, difference or question relating to or arising among any of the Parties concerning the construction, meaning, effect or implementation of this Agreement or the rights or obligations of any Party hereof will be submitted to, and settled by arbitration by a single arbitrator chosen by the corresponding Regional Office of the American Arbitration Association in accordance with the Commercial Rules of the American Arbitration Association. The Parties shall submit briefs of no more than 10 pages and the arbitration hearing shall be limited to two (2) days maximum. The arbitrator shall apply Massachusetts law. Unless otherwise agreed by the Parties, arbitration will take place in Boston, Massachusetts, U.S.A. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator. Service of a petition to confirm the arbitration award may be made by regular mail or by commercial express mail, to the attorney for the Party or, if unrepresented, to the Party at the last known business address. If however, Depositor or Beneficiary refuse to submit to arbitration, the matter shall not be submitted to arbitration and Iron Mountain may submit the matter to any court of competent jurisdiction for an interpleader or similar action.
- (p) **Regulations.** Depositor and Beneficiary are responsible for and warrant, to the extent of their individual actions or omissions, compliance with all applicable laws, rules and regulations, including but not limited to: customs laws; import; export and re-export laws; and government regulations of any country from or to which the Deposit Material may be delivered in accordance with the provisions of this Agreement. With respect to Deposit Material containing personal information and data, Depositor agrees to (i) procure all necessary consents in relation to personal information and data; and (ii) otherwise comply with all applicable privacy and data protection laws as they relate to the subject matter of this Agreement. Notwithstanding anything in this Agreement to the contrary, if an applicable law or regulation exists or should be enacted which is contrary to the obligations imposed upon Iron Mountain hereunder, and results in the activities contemplated hereunder unlawful, Depositor and/or Beneficiary will notify Iron Mountain and Iron Mountain will be relieved of its obligations hereunder unless and until such time as such activity is permitted.
- (q) **No Third Party Rights.** This Agreement is made solely for the benefit of the Parties to this Agreement and their respective permitted successors and assigns, and no other person or entity shall have or acquire any right by virtue of this Agreement unless otherwise agreed to by all the Parties hereto.
- (r) **Entire Agreement.** The Parties agree that this Agreement, which includes all the Exhibits attached hereto and all valid Work Requests and SOWs submitted by the Parties, is the complete agreement between the Parties hereto concerning the subject matter of this Agreement and replaces any prior or contemporaneous oral or written communications between the Parties. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified herein. Each of the Parties herein represents and warrants that the execution, delivery, and performance of this Agreement has been duly authorized and signed by a person who meets statutory or other binding approval to sign on behalf of its business organization as named in this Agreement. This Agreement may only be modified by mutual written agreement of all the Parties.
- (s) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.
- (t) **Survival.** Sections 6 (Term and Termination), 7 (Infringement Indemnification), 8 (Warranties), 9 (Confidential Information), 10 (Limitation of Liability), 11 (Consequential Damages Waiver), and 12 (General) of this Agreement shall survive termination of this Agreement or any Exhibit attached hereto.

(balance of this page left intentionally blank – signature page follows)

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the Effective Date by their authorized representatives:

DEPOSITOR	
Signature	<small>DocuSigned by:</small> Daniel K. Greer
Print Name	Daniel K. Greer
Title	Chief Financial Officer
Date	September 1, 2011 15:46 PT
Email Address	dgreer@spillman.com

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.	
Signature	
Print Name	Mary K. English
Title	Vice President, Operations
Date	9/2/11
Email Address	ipmclientservices@ironmountain.com

Provide the name and contact information of the Authorized Person under this Agreement. All notices will be sent to the person at the address set forth below.

Depositor Authorized Person/Notices Table (Required information)	
Print Name	Daniel K. Greer
Title	Chief Financial Officer
Email Address	dgreer@spillman.com
Street Address	4625 West Lake Park Blvd.
Province/City/State	Salt Lake City, UT
Postal/Zip Code	84120
Phone Number	801-902-1417
Fax Number	801-902-1210

<p>Approved as to IPM Operational Content: Iron Mountain IPM Service Delivery</p> <p></p> <p>Name: Susannah E. Scott, Contracts Specialist Date: September 1, 2011</p>

Provide the name and contact information of the Billing Contact under this Agreement. All Invoices will be sent to this individual at the address set forth below.

Billing Contact Information Table (Required information)	
Print Name	Daniel K. Greer
Title	Chief Financial Officer
Email Address	dgreer@spillman.com
Street Address	4625 West Lake Park Blvd.
Province/City/State	Salt Lake City, UT
Postal/Zip Code	84120
Phone Number	801-902-1417
Fax Number	801-902-1210

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

All notices should be sent to ipmclientservices@ironmountain.com OR Iron Mountain Intellectual Property Management, Inc., Attn: Client Services, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA. Telephone: 800-875-5669. Facsimile: 770-239-9201

(balance of this page left intentionally blank – EXHIBITS follow)

Exhibit A

Escrow Service Work Request

Master Deposit Account Number 39874

Service Check box(es) to order service	Service Description - Three-Party Master Depositor Escrow Service Agreement All services are listed below. Services in shaded tables are required for every new escrow account set up. Some services may not be available under the Agreement.	One- Time Fees	Annual Fees	Paying Party Check box to identify the Paying Party
<input checked="" type="checkbox"/> Setup Fee	Iron Mountain will setup a new escrow deposit account using a standard escrow agreement. Custom contracts are subject to the Custom Contract Fee noted below.	\$2,500		<input checked="" type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input checked="" type="checkbox"/> Deposit Account Fee	Iron Mountain will set up one deposit account to manage and administrate access to Deposit Material that will be secured in a controlled storage environment. Furthermore, Iron Mountain will provide account services that include unlimited deposits, electronic vaulting, access to Iron Mountain Connect™ Escrow Management Center for secure online account management, submission of electronic Work Requests, and communication of status. A Client Manager will be assigned to each deposit account and provide training upon request to facilitate secure Internet access to the account and ensure fulfillment of Work Requests. An oversize fee of \$200 USD per 1.2 cubic foot will be charged for deposits that exceed 2.4 cubic feet.		\$1,000	<input checked="" type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Beneficiary	Iron Mountain will fulfill a Work Request to add a Beneficiary to an escrow deposit account and manage access rights associated with the account. Beneficiary will have access to Iron Mountain Connect™ Escrow Management Center for secure online account management, submission of electronic Work Requests, and communication of status. A Client Manager will be assigned to each deposit account and provide training upon request to facilitate secure Internet access to the account and ensure fulfillment of Work Requests.		\$700	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Additional Deposit Account	Iron Mountain will set up one additional deposit account to manage and administrate access to new Deposit Material that will be securely stored in controlled media vaults in accordance with the service description above and the Agreement that governs the Initial Deposit Account.		\$1,000	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add File List Report	Iron Mountain will fulfill a Work Request to provide a File List Test, which includes a deposit media readability analysis, a file listing, a file classification table, virus scan outputs, and assurance of completed deposit questionnaire. A final report will be sent to the Paying Party regarding the Deposit Material to ensure consistency between Depositor's representations (i.e., Exhibit B and Deposit Questionnaire) and stored Deposit Material. Deposit must be provided on CD, DVD-R, or deposited by sFTP.	\$2,500	N/A	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Level 1 - Inventory and Analysis Test	Iron Mountain will perform an inventory Test on the initial deposit, which includes Analyzing deposit media readability, virus scanning, developing file classification tables, identifying the presence/absence of build instructions, and identifying materials required to recreate the Depositor's software development environment. Output includes a report which will include build instructions, file classification tables and listings. In addition, the report will list required software development materials, including, without limitation, required source code languages and compilers, third-party software, libraries, operating systems, and hardware, as well as Iron Mountain's analysis of the deposit.	\$5,000 or based on SOW if custom work required	N/A	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Level 2 - Deposit Compile Test	Iron Mountain will fulfill a Work Request to perform a Deposit Compile Test, which includes the outputs of the File Listing Report and the Level 1 - inventory Test as described above plus recreating the Depositor's software development environment, compiling source files and modules, linking libraries and recreating executable code, pass/fail determination, creation of comprehensive build instructions with a final report sent to the Paying Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom Statement of Work ("SOW") prior to the start of fulfillment.	Based on SOW	N/A	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Level 3 - Binary Comparison	Iron Mountain will fulfill a Work Request to perform one Deposit Usability Test - Binary Comparison which includes a comparison of the files built from the Deposit Compile Test to the actual licensed technology on the Beneficiary's site to ensure a full match in file size, with a final report sent to the Requesting Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom Statement of Work ("SOW") prior to the start of fulfillment.	Based on SOW	N/A	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Level 4 - Full Usability	Iron Mountain will fulfill a Work Request to perform one Deposit Usability Test - Full Usability which includes a confirmation that the built applications work properly when installed, based on pre-determined test scripts provided by the Parties. A final report will be sent to the Paying Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom Statement of Work ("SOW") prior to the start of fulfillment.	Based on SOW	N/A	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Deposit Tracking Notification	At least semi-annually, Iron Mountain will send an update reminder to Depositor. Thereafter, Beneficiary will be notified of last deposit.	N/A	\$375	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Dual/Remote Vaulting	Iron Mountain will fulfill a Work Request to store and manage the deposit materials in a remote location, designated by the client, outside of Iron Mountain's primary escrow vaulting location or to store and manage a redundant copy of the deposit materials in one (1) additional location. All Deposit Materials (original and copy) must be provided by the Depositor.	N/A	\$500	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Release Deposit Material	Iron Mountain will process a Work Request to release Deposit Material by following the specific procedures defined in Exhibit C "Release of Deposit Material" the Escrow Service Agreement.	\$500	N/A	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Custom Services	Iron Mountain will provide its Escrow Expert consulting based on a custom SOW mutually agreed to by all Parties.	\$175/ hour	N/A	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input checked="" type="checkbox"/> Custom Contract Fee	Custom contracts are subject to the Custom Contract Fee, which covers the review and processing of custom or modified contracts.	\$750	N/A	<input checked="" type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary

Exhibit B Deposit Material Description

Company Name		Deposit Account Number	39874
Deposit Name		Deposit Version	

(Deposit Name will appear in account history reports)

Deposit Media

(Please Label All Media with the Deposit Name Provided Above)

Media Type	Quantity	Media Type	Quantity
<input type="checkbox"/> CD-ROM / DVD		<input type="checkbox"/> 3.5" Floppy Disk	
<input type="checkbox"/> DLT Tape		<input type="checkbox"/> Documentation	
<input type="checkbox"/> DAT Tape		<input type="checkbox"/> Hard Drive / CPU	
		<input type="checkbox"/> Circuit Board	

	Total Size of Transmission (specify in bytes)	# of Files	# of Folders
<input type="checkbox"/> Electronic Deposit			
<input type="checkbox"/> Other (please describe below):			

Deposit Encryption

(Please check either "Yes" or "No" below and complete as appropriate)

Is the media or are any of the files encrypted? Yes or No

If yes, please include any passwords and decryption tools description below. Please also deposit all necessary encryption software with this deposit.

Encryption tool name	Version	
Hardware required		
Software required		
Other required information		

Deposit Certification (Please check the box below to Certify and Provide your Contact Information)

<input type="checkbox"/> I certify for Depositor that the above described Deposit Material has been transmitted electronically or sent via commercial express mail carrier to Iron Mountain at the address below.	<input type="checkbox"/> Iron Mountain has inspected and accepted the above described Deposit Material either electronically or physically. Iron Mountain will notify Depositor of any discrepancies.		
Name	Name		
Date	Date		
Email Address			
Telephone Number			
Fax Number			

Note: If Depositor is physically sending Deposit Material to Iron Mountain, please label all media and mail all Deposit Material with the appropriate Exhibit B via commercial express carrier to the following address:

Iron Mountain Intellectual Property Management, Inc.
 Attn: Vault Administration
 2100 Norcross Parkway, Suite 150
 Norcross, GA 30071
 Telephone: 800-875-5669
 Facsimile: 770-239-9201

Exhibit C
Release of Deposit Material

Master Deposit Account Number	39874
-------------------------------	-------

Iron Mountain will use the following procedures to process any Beneficiary Work Request to release Deposit Material. All notices under this Exhibit C shall be sent pursuant to the terms of Section 12(h) Notices.

1. Release Conditions.

Depositor and Beneficiary agree that a Work Request for the release of the Deposit Material shall be based solely on one or more of the following conditions (defined as "Release Conditions"):

- (i) Depositor ceases to actively conduct its business as a going concern, or liquidates, dissolves, terminates or suspends its business without a successor; or
- (ii) Depositor terminates all customer support and maintenance for the software licensed to Beneficiary; or
- (iii) Depositor becomes subject to bankruptcy proceedings for liquidation or dissolution (voluntary or involuntary, if not contested by Depositor in a timely manner); or
- (iv) Depositor's breach of any obligation identified as a source code escrow release condition in the license agreement or other agreement between the Depositor and Beneficiary.

2. Release Work Request.

A Beneficiary may submit a Work Request to Iron Mountain to release the Deposit Material covered under this Agreement. Iron Mountain will send a written notice of this Beneficiary Work Request within five (5) business days to the Depositor's Authorized Person.

3. Contrary Instructions.

From the date Iron Mountain mails written notice of the Beneficiary Work Request to release Deposit Material covered under this Agreement, Depositor Authorized Person(s) shall have ten (10) business days to deliver to Iron Mountain contrary instructions. Contrary instructions shall mean the written representation by Depositor that a Release Condition has not occurred or has been cured ("Contrary Instructions"). Contrary Instructions shall be on company letterhead and signed by a Depositor Authorized Person. Upon receipt of Contrary Instructions, Iron Mountain shall promptly send a copy to Beneficiary's Authorized Person(s). Additionally, Iron Mountain shall notify both Depositor and Beneficiary Authorized Person(s) that there is a dispute to be resolved pursuant to the Disputes provisions of this Agreement. Iron Mountain will continue to store Deposit Material without release pending (i) joint instructions from Depositor and Beneficiary with instructions to release the Deposit Material; or (ii) dispute resolution pursuant to the Disputes provisions of this Agreement; or (iii) withdrawal of Contrary Instructions from Depositor's Authorized Person or legal representative; or (iv) receipt of an order from a court of competent jurisdiction.

4. Release of Deposit Material.

If Iron Mountain does not receive timely Contrary Instructions from a Depositor Authorized Person, Iron Mountain is authorized to release Deposit Material to the Beneficiary or, if more than one Beneficiary is registered to the deposit, to release a copy of Deposit Material to the Beneficiary. Iron Mountain is entitled to receive any undisputed, unpaid Service Fees due Iron Mountain from the Parties before fulfilling the Work Request to release Deposit Material covered under this Agreement. Any Party may cure a default of payment of Service Fees.

5. Termination of Agreement.

This Agreement will terminate upon the release of Deposit Material held by Iron Mountain. For the avoidance of doubt, each enrollment of a Beneficiary made by the respective parties signing the Beneficiary Enrollment Form attached hereto as Exhibit E constitutes and shall be construed as a separate agreement between Iron Mountain, Depositor and the signing Beneficiary.

6. Right to Use Following Release.

Beneficiary has the right under this Agreement to use the Deposit Material for the sole purpose of continuing the benefits afforded to Beneficiary by the License Agreement. Notwithstanding, the Beneficiary shall not have access to the Deposit Material unless there is a release of the Deposit Material in accordance with this Agreement. Beneficiary shall be obligated to maintain the confidentiality of the released Deposit Material.

Exhibit D

Auxiliary Deposit Account to Escrow Agreement

Master Deposit Account Number	39874
Auxiliary Deposit Account Number	

_____ (“**Depositor**”), and Iron Mountain Intellectual Property Management, Inc. (“**Iron Mountain**”) have entered into the above referenced Escrow Agreement (“**Agreement**”). Pursuant to that Agreement Beneficiary or Depositor may create additional deposit accounts (“**Auxiliary Deposit Account**”) for the purpose of holding additional Deposit Material in a separate account which Iron Mountain will maintain separately from other deposit accounts under this Agreement. The new account will be referenced by the following name: _____ (“**Deposit Account Name**”).

Pursuant to the Agreement, Depositor may submit material to be held in this Auxiliary Deposit Account by submitting a properly filled out Exhibit B with the Deposit Material to Iron Mountain. For avoidance of doubt, Beneficiary's rights and obligations relative to the Deposit Material held in any deposit account under this Agreement are governed by the express terms of the Agreement; this form does not provide any additional rights in the Deposit Material.

Depositor Authorized Person(s) Notices Table

Please provide the name(s) and contact information of the Depositor Authorized Person(s) for this Deposit Account. It is the intent of the Parties that the individual identified below will act as the Authorized Person with respect to this Deposit Account. All Notices will be sent electronically or through regular mail to the appropriate address set forth below. Please complete all information as applicable. Incomplete information may result in a delay of processing.

Print Name	
Title	
Email Address	
Street Address	
Province/City/State	
Postal/Zip Code	
Phone Number	
Fax Number	

Billing Contact Information Table

All Invoices for Deposit Account Fees will be sent to the contact set forth below.

Company Name	
Print Name	
Title	
Email Address	
Street Address	
Province/City/State	
Postal/Zip Code	
Phone Number	
Fax Number	

The undersigned hereby agrees that all terms and conditions of the above referenced Escrow Agreement will govern this Auxiliary Deposit Account. The termination or expiration of any other deposit account will not affect this account.

DEPOSITOR	
Signature	
Print Name	
Title	
Date	
Email Address	

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.	
Signature	
Print Name	
Title	
Date	
Email Address	ipmclientservices@ironmountain.com

Exhibit E Beneficiary Enrollment Form

Depositor and Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain"), hereby acknowledge that **Beneficiary Company Name: Tracy Police Department** is the **Beneficiary** referred to in the Escrow Agreement that supports **Deposit Account Number: 39874-45408** with Iron Mountain as the escrow agent. **Beneficiary** hereby agrees to be bound by all provisions of such Agreement. The last date noted on the signature blocks of this enrollment shall be the Effective Date.

Authorized Person(s) Notices Table			
Please provide the name(s) and contact information of the Authorized Person(s) under this Agreement. All Notices will be sent electronically or through regular mail to the appropriate address set forth below. Please complete all information as applicable. Incomplete information may result in a delay of processing.			
DEPOSITOR		BENEFICIARY	
Print Name	Daniel K. Greer	Print Name	Gary Hampton
Title	CFO	Title	Chief of Police
Email Address	dgreer@spillman.com	Email Address	Gary.Hampton@ci.tracy.ca.us
Street Address	4625 West Lake Park Blvd.	Street Address	1000 Civic Center Dr.
Province/City/State	Salt Lake City, UT	Province/City/State	Tracy, CA
Postal/Zip Code	84120	Postal/Zip Code	95376
Phone Number	801-902-1417	Phone Number	209-831-4550
Fax Number	801-902-1210	Fax Number	209-831-4019
Billing Contact Information Table			
Please provide the name and contact information of the Billing Contact under this Agreement. All Invoices will be sent to this individual at the address set forth below.			
DEPOSITOR		BENEFICIARY	
<input checked="" type="checkbox"/> <i>Check if same as Authorized Person</i>		<input checked="" type="checkbox"/> <i>Check if same as Authorized Person</i>	
Company Name	Spillman Technologies, Inc.	Company Name	Tracy Police Department
Print Name		Print Name	
Title		Title	
Email Address		Email Address	
Street Address		Street Address	
Province/City/State		Province/City/State	
Postal/Zip Code		Postal/Zip Code	
Phone Number		Phone Number	
Fax Number		Fax Number	
Purchase Order #		Purchase Order #	

Beneficiary Enrollment Form Work Request				
Please check boxes to order services and to identify the Paying Party				
Service	Service Description	One-Time Fees	Annual Fees	Paying Party
<input checked="" type="checkbox"/> Add Additional Beneficiary	Iron Mountain will fulfill a Work Request to add a new Beneficiary to an escrow deposit account in accordance with the Agreement.		\$700	<input type="checkbox"/> Depositor <input checked="" type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Additional Deposit Account	Iron Mountain will set up one additional deposit account to manage and administrate access to new Deposit Material that will be securely stored in controlled media vaults in accordance with the Agreement that governs the Initial Deposit Account.		\$1,000	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add File List Report	Iron Mountain will fulfill a Work Request to provide a File List Test, which includes a deposit media readability analysis, a file listing, a file classification table, virus scan outputs, and assurance of completed deposit questionnaire. A final report will be sent to the Paying Party regarding the Deposit Material to ensure consistency between Depositor's representations (i.e., Exhibit B and Deposit Questionnaire) and stored Deposit Material. Deposit must be provided on CD, DVD-R, or deposited by sFTP.	\$2,500	N/A	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Level 1 - Inventory and Analysis Test	Iron Mountain will perform an Inventory Test on the initial deposit, which includes Analyzing deposit media readability, virus scanning, developing file classification tables, identifying the presence/absence of build instructions, and identifying materials required to recreate the Depositor's software development environment. Output includes a report which will include build instructions, file classification tables and listings. In addition, the report will list required software development materials, including, without limitation, required source code languages and compilers, third-party software, libraries, operating systems, and hardware, as well as Iron Mountain's analysis of the deposit.	\$5,000 or based on SOW if custom work required	N/A	<input type="checkbox"/> Depositor <input type="checkbox"/> Beneficiary

IN WITNESS WHEREOF, the Parties have duly executed this Enrollment as of the Effective Date by their authorized representatives:

DEPOSITOR		BENEFICIARY	
Signature		Signature	
Print Name	Daniel K. Greer	Print Name	Gary Hampton
Title	CFO	Title	Chief of Police
Date		Date	
Email Address	dgreer@spillman.com	Email Address	Gary.Hampton@ci.tracy.ca.us

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.	
Signature	
Print Name	
Title	
Date	
Email Address	ipmclientservices@ironmountain.com

All notices to **Iron Mountain Intellectual Property Management, Inc.** should be sent to ipmclientservices@ironmountain.com OR Iron Mountain Intellectual Property Management, Inc., Attn: Client Services, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA. Telephone: 800-875-5669. Facsimile: 770-239-9201

Exhibit Q

Escrow Deposit Questionnaire

Introduction

From time to time, technology escrow beneficiaries may exercise their right to perform verification services. This is a service that Iron Mountain provides for the purpose of validating relevance, completeness, currency, accuracy and functionality of deposit materials.

Purpose of Questionnaire

In order for Iron Mountain to determine the deposit material requirements and to quote fees associated with verification services, a completed deposit questionnaire is requested. It is the responsibility of the escrow depositor to complete the questionnaire.

Instructions

Please complete the questionnaire in its entirety by answering every question with accurate data. Upon completion, please return the completed questionnaire to the beneficiary asking for its completion.

General Description

1. What is the general function of the software to be placed into escrow?
2. On what media will the source code be delivered?
3. If the deposit is on magnetic tape media, what tape format (e.g. DAT DDS4, DLT 8000, LTO-3, etc.) will be used for the deposit?
4. Again if the deposit is on tape, what operating system and version was used to create the tape and what tools (either native OS or commercial (e.g. Backup Exec, NetBackup, etc.) were used to load the data; if a third party or commercial software tool was used, please specify the vendor and exact version of the tool used.
5. Will the deposit be in the format of a database/repository of any type of Versioning or Configuration Management Tool (e.g. Visual Source Safe, Clearcase, Perforce, etc.) or will the software in the deposit be in a clear text/native file system format? If a Versioning or CM tool will be necessary to examine any part the deposit contents, please specify the Vendor and tool and exact version used.
6. Is the software deposit encrypted, including password protected archives, in any way? If so, what tool and version will be used to perform the encryption and will all necessary userids, passwords or encryption keys be provided to support extraction of the software?
7. What is the total uncompressed size of the deposit in megabytes?

Requirements for the Execution of the Software Protected by the Deposit

1. What are the system hardware requirements to successfully execute the software? (memory, disk space, etc.); please include any additional peripheral devices that may be necessary to support correct function of the software/system.
2. What is the minimum number of machines required to completely set up the software sufficient to support functional testing? What Operating systems and version are required for each machine?
3. Beyond the operating systems, what additional third party software and tools are required to execute the escrowed software and verify correct operation? Please provide vendor and versions of all third party tools or libraries required to completely configure a system suitable to support functional testing.
4. If a database of any kind is required to support functional testing of the software, does the escrow deposit contain or can the depositor provide scripts and backups/imports necessary to create a database instance suitable to support functional testing. Note: a database containing test data is satisfactory to support functional testing so long as the data is realistic.
5. Approximately how much time is required to setup and configure a system suitable to support functional testing?
6. Approximately how much time would be required to perform a set of limited tests once a test system is configured?
7. Does the escrow deposit contain or can the depositor provide test plans, scripts or procedures to facilitate testing?
8. With the exception of any database identified above, are any connections to external data sources, feeds or sinks required in order to support the proper functioning of the software and to support testing of the software?

Requirements for the Assembly of the Deposit

1. Describe the nature of the source code in the deposit. (Does the deposit include interpreted code, compiled source, or a mixture? How do the different parts of the deposit relate to each other?) What types of source code make up the escrow deposit (e.g. - C++, Java, etc.)
2. How many build processes are there?
3. How many unique build environments are required to assemble the material in the escrow deposit into the deliverables?
4. What hardware is required for each build environment to compile the software? (including memory, disk space, etc.)
5. What operating systems (including versions) are used during compilation? Is the software executed on any other operating systems/version?
6. How many separate deliverable components (executables, share libraries, etc.) are built?
7. What compilers/linkers/other tools (brand and version) are necessary to build the application?
8. What, if any, third-party libraries are used to build the software? Please specify vendor, tool name and exact or minimum required version.

9. If a database of any kind is necessary to support compilation, is a running instance of the database necessary or is a static instance consisting of the static and shared libraries and/or header files installed by the database sufficient to support compilation?
10. How long does a complete build of the software take? How much of that time requires some form of human interaction and how much is automated?
11. Does the escrow deposit contain formal build document(s) describing the necessary steps for build system configuration and compilation?
12. Do you have an internal QA process? If so, please give a brief description of the testing process.
13. Please list the appropriate technical person(s) Iron Mountain may contact regarding this set of escrow deposit materials.

Please provide your technical verification contact information below:

Company	
Print Name	
Title	
Email Address	
Street Address	
Province/City/State	
Postal/Zip Code	
Phone Number	

For additional information about Iron Mountain Technical Verification Services, please contact Iron Mountain at (800) 875-5669.

Certificate of Completion

Envelope Number: 1B61E6ABB1914BA19EB34E4404BB4486
Subject: Please DocuSign this document: spillman stamped 9-1-11.pdf
Source Envelope:
Document Pages: 14
Certificate Pages: 1
AutoNav: Enabled
Enveloped Stamping: Enabled

Signatures: 1
Initials: 0

Status: Completed

Envelope Originator:
Ryan Armer
120 Turnpike Road
Southborough, MA 01772
ryan.armer@ironmountain.com
IP Address: 216.229.152.50

Record Tracking

Status: Original
9/1/2011 3:28:20 PM PST

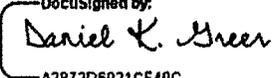
Holder: Ryan Armer
ryan.armer@ironmountain.com

Location: DocuSign

Signer Events

Daniel K. Greer
dgreer@spillman.com
Security Level: Email, Account Authentication (None)
Consumer Disclosure:
Not Offered
ID:

Signature

DocuSigned by:

A2872D6021CF40C
Using IP Address: 65.121.182.3

Timestamp

Sent: 9/1/2011 3:38:40 PM PT
Delivered: 9/1/2011 3:39:56 PM PT
Signed: 9/1/2011 3:46:21 PM PT

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Tadlana Jones
tjonesdjp@aol.com
Security Level: Email, Account Authentication (None)
Consumer Disclosure:
Not Offered
ID:

Status

COPIED

Timestamp

Sent: 9/1/2011 3:38:40 PM PT
Delivered: 9/1/2011 3:40:14 PM PT

Envelope Summary Events

Envelope Sent
Certified Delivered
Signing Complete
Completed

Status

Hashed/Encrypted
Security Checked
Security Checked
Security Checked

Timestamps

9/1/2011 3:38:40 PM PT
9/1/2011 3:39:56 PM PT
9/1/2011 3:46:21 PM PT
9/1/2011 3:46:21 PM PT

AGENDA ITEM 6

REQUEST

AUTHORIZATION TO ENTER INTO NEGOTIATIONS WITH MARY ANN BRIGHAM FOR POTENTIAL LEASE OF A CITY-OWNED BUILDING AT 729/741 CENTRAL AVENUE FOR A BREWPUB/RESTAURANT

EXECUTIVE SUMMARY

This is a request to authorize City staff to enter into negotiations with Mary Ann Brigham for the potential location of a brewpub/restaurant at the former West Side Market property. Mary Ann Brigham currently operates Ruth McGowan's brewpub in Cloverdale.

BACKGROUND

In August 2011, the City purchased the property at 729/741 Central Avenue for the purpose of revitalizing Downtown. The property consists of an approximately 11,017 square foot building on an approximately 10,500 square foot lot. The building has most recently been occupied by the West Side Market and a performing arts studio. Recruitment of select businesses that capture consumer or sales tax leakage and enhance the mix of businesses in the Downtown has long been a strategic priority for Downtown revitalization.

Over the past eight years the City has invested approximately \$57 million in the Downtown area, including such projects as reconstruction of the Grand Theatre Center for the Arts, construction of the Tracy Transit Station, construction of Downtown Streetscape and Infrastructure improvements, renovation of the Fire Department Administrative Headquarters building, construction of Downtown parking lots, and construction (currently underway) of the Downtown Plaza. For the next step in the revitalization of Downtown, the City is seeking to incentivize private investment with this Downtown brewpub/restaurant project.

DISCUSSION

On December 1, 2011, the City published a Request for Letters of Interest with the aim of attracting a brewpub/restaurant to the City-owned property at 729/ 741 Central Avenue. The Request for Letters of Interest was mailed to approximately 100 brewpubs in Northern California, plus approximately 20 restaurants and 30 developers. In addition to the mailing, staff contacted and provided facility tours to a handful of developers and restaurant owners.

A Letter of Interest was received from Mary Ann Brigham on January 26, 2012 (Attachment A). Mary Ann Brigham is currently an owner of Ruth Mc Gowan's Brewpub in Cloverdale, where she has been operating for the past 10 years. She has an interest in establishing a brewpub/restaurant in Downtown Tracy at the subject property. Attachment B is a positive message from the Chief of Police in Cloverdale regarding the operation of her existing business. Attachment C is a positive review from a beer critic,

who recently awarded Beer of the Week to Ruth McGowan's Brewpub. Attachment D contains general information from Ruth McGowan's website.

On February 17, 2012, staff published a Request for Proposals (RFP) for architectural and engineering design services for the interior and exterior remodel and change of occupancy of the building from retail use to brewpub/restaurant. The deadline to submit proposals is March 22, 2012.

The recommended next steps include the following:

- Return to City Council in April 2012 with a request for: (1) appropriation of Residential Area Specific Plan (RSP) funds for the design costs, legal consulting fees, appraisal fees, construction improvements to the shell building, and improvements to the interior in order to allow the building to better function in accordance with the City's desired use, and (2) an award of a Professional Services Agreement (PSA) to an architectural/engineering firm for the design of the building.
- Return to City Council at a future date with a Lease Agreement for Council consideration regarding a proposal from Mary Ann Brigham.

STRATEGIC PLAN

This agenda item supports the Economic Development Strategic Plan's goal of Downtown revitalization and specifically implements the following Action/ Task:

Action/ Task 2aiii: Secure a successful restaurant for the West Side Market space.

FISCAL IMPACT

There is no impact to the General Fund as a result of entering into these negotiations, aside from staff time. City staff will be requesting an appropriation of RSP funds at a future City Council meeting as described above.

RECOMMENDATION

That City Council authorize City staff to enter into negotiations with Mary Ann Brigham for the potential lease of a City-owned building at 729/741 Central Avenue for a brewpub/ restaurant and return to Council with a Lease Agreement for consideration.

Prepared by: Scott Claar, Associate Planner

Reviewed by: Bill Dean, Assistant DES Director

Approved by: Andrew Malik, Development Services Director
Leon Churchill, Jr., City Manager

Attachments:

- A. Letter of Interest from Mary Ann Brigham
- B. Positive Message from Chief of Police in Cloverdale
- C. Positive Review – Beer of the Week
- D. General Information from Ruth McGowan's Website

ATTACHMENT A

January 25, 2012

Letter of Interest
City of Tracy
333 Civic Center Pl.
Tracy, CA 95376

After much consideration and research, our team at Ruth McGowan's would like to take this brewpub/restaurant opportunity to the next level.

On March 17th we will celebrate our 10th anniversary at our current location -- no small feat in a rural, economically-depressed town of under 9,000 people. We are the anchor destination in the downtown.

Our business model is really quite simple, "Create a community of loyal, enthusiastic patrons by providing an exceptional product, good service, a warm family friendly atmosphere and a safe environment", --simple, in theory, very hands-on, in fact.

Tracy appears to have invested heavily in its downtown core with some astonishing results. The Grand Theatre Center for the Arts took courage and vision as did the new plaza. Tracy is doing everything possible to spur economic growth in the downtown and a quality brewpub would be a logical inclusion to create foot traffic to help promote these community assets.

What you can expect from us:
Experienced Project Manager
Award Winning Brewer
Exceptional Consulting Chef
Front of House Manager with 25 Years experience to train staff

This project would employ 20 to 30 local people. We will bring training staff in, but to create a home town loyalty the staff must be local.

Sales tax revenue on across the counter sales of \$60,000.00 to \$80,000.00 per month. I would rather be conservative on these numbers as it will take at least 2 years to create a complete community buy in. There also will be wholesale sales of the "Brand" we give our Tracy product which gives the City indirect sales tax revenue.

The increase in foot traffic in the downtown will be significant and we will work closely with our neighbors to create event draws that help everyone.

Thank You for your consideration

Mary Ann Brigham
Ruth McGowan's Brewpub
131 East First Street
Cloverdale, CA 95425
707-481-0094

ATTACHMENT B

January 25, 2012

City of Tracy Planning Commission

Dear Planning Commission:

RE: Ruth McGowens Brew Pub in Cloverdale, CA

I have been the Chief of Police here in Cloverdale for almost six years. During that time, I cannot think of a single incident involving the police department and Ruth McGowens Brew Pub. They have never been caught serving underage and anyone who even looks like they want to cause trouble is escorted out and banned from returning. The pub is well run and has a regular clientele in addition to many of the 'wine country' visitors and also offers great food. Although, I myself am not a regular beer drinker, my wife and I dine there often enjoying the food, service and atmosphere.

If I can answer any questions, please contact me.

Thanks

Mark D. Tuma
Chief of Police
Cloverdale Police Department
112 Broad St. Cloverdale, CA 95425
Airport Manager - Cloverdale Muni 060
(P) 707-894-2150 (F) 707-894-5203

Beer of the Week

Ruth McGowan's Floyd IPA

In 2011, the biggest trend in Sonoma County wasn't a beer style but distribution. Overnight it seemed, Sonoma County brewpubs made the conversion from in-house, draft only beers to bottling and kegging their beer for sale around Sonoma County. This week, I'll feature one of my favorites that's made it's way to bottles. The beer of the Week is Ruth McGowan's Floyd IPA.

Floyd India Pale Ale, An India Pale Ale for all moods. Huge hop bitterness, floral nose and citrus hop notes. The beer for serious beer drinkers. Floyd would have loved it. ABV 6.7%

I was excited to try Floyd from the bottle as it has always been one of my favorites from Ruth McGowan's. With all the hop lovers in Sonoma County and exposure to great beers, I think Cloverdale gets lost in the shuffle being so far north.

Floyd IPA starts with a big hoppy aroma, based in tropical fruit. With a slightly dark color for an IPA, Floyd's amberish body is still appealing with a crisp white head. A toasty malt body provides a rich base for a refreshing hop finish. A touch of sweetness and hop fruitiness lingers on the palate.

Despite being a small brewpub, Ruth's bottling lineup is quite impressive, with five of their selections making it to bottles. I was able to catch them bottling some of their beers one afternoon and included pictures in the slideshow below.

For those looking to pick-up some of the Floyd to take home, the brewpub always has it in stock as do Sheltons market in Healdsburg, Bottle Barn, Geyserville market & deli and Big Johns in Healdsburg (starting next week).



Brewed For Thought is written by Mario Rubio and a collection of writers around the country. Brewed For Thought is based out of Santa Rosa, CA but covers the craft beer community around the United States and the world.

Brewed For Thought



www.BrewedForThought.com





Mary Ann and Mike Brigham opened Ruth McGowan's Brewpub on March 17, 2002. The environment is a friendly, family-oriented neighborhood pub with framed photographs of old Cloverdale lining the walls. It is named in honor of Mike's feisty, stout-hearted grandmother, Ruth.

Beers:

They have 4 House beers, 4 Guest beers, various bottled beers & a non-alcoholic beer.

Restaurant Menu Items:

Appetizers, soups & salads, burgers, fish & chips, wraps, sandwiches, desserts, and a kids menu. They also provide weekend brunch.



Entertainment:

Happy Hour 3-6pm m-f, Growler re-fill night (Tues.), Pitcher night (Thu.), Mug Club

Dart League, Shuffleboard, Open-Mike nights, Session nights (variety of live music) & Charity fund raisers.





RUTH MCGOWAN'S BREWPUB

Located in beautiful Cloverdale in northern Sonoma County, CA.



- Main
- Beer
- Menu
- Calendar
- Games
- Map
- MySpace

Our beers are crafted using time honored methods and outstanding ingredients.

HOUSE BEER



Caroline's Blonde, Vienna and Pilsner Malts combine with French Strisselspalt Hops to create a crisp, light, golden ale. Great with spicy foods like gumbo. ABV 5.5%



Cloverdale Ale, Our flagship beer. This perfectly balanced amber ale combines caramel malt tones with just enough Cascade hop kick. ABV 5.8%



KONG Brown Ale, A soft hop aroma precedes a big, malt-chocolate finish. A potent beast the likes of which you've never tasted. Careful with this one! ABV 8.2%



Floyd India Pale Ale, An India Pale Ale for all moods. Huge hop bitterness, floral nose and citrus hop notes. The beer for serious beer drinkers. Floyd would have loved it. ABV 6.7%

Tasters - \$1.50 • 10oz Glass - 3.50 • Pint - \$4.50
Pitcher - \$12.95 • Growler - \$19.95 • Growler Refill - \$12.95

Happy Hour (3pm to 6pm, monday thru friday) Pint - \$3.00
Growler Refill Night, Tuesday - \$10.95
Pitcher Night, Thursday - \$10.95



GUEST BEER ON TAP



Same price as above, no growler fills on guest beers.

BOTTLED BEVERAGES

Coors Lite & PBR \$4.50
Bitburger, Nonalcoholic Beer 4.50
Bacardi Silver Mojito 4.50





RUTH MCGOWAN'S BREWPUB

Located in beautiful
Cloverdale in northern
Sonoma County, CA.



- [Main](#)
- [Beer](#)
- [Menu](#)
- [Calendar](#)
- [Games](#)
- [Map](#)
- [MySpace](#)

Lunch and dinner menu

18% GRATUITY AUTOMATICALLY ADDED TO TABLES OF 6 OR MORE.

Starters

Buffalo Wings
.....Small \$6.50 Large \$11.50
Spicy Buffalo, NY style wings.
Coated with Frank's Sauce and
served with bleu cheese dressing.

Wing Specials
.....Small \$6.50 Large \$11.50
Bourbon, Honey BBQ, Sweet
Chili Thai or Sweet & Sour.

Calamari
.....Small \$6.50 Large \$11.50
Crispy on the outside, tender on
the inside. Calamari rings are
served with soy-ginger dipping
sauce.

Onion-Rings or Spicy Scoops
.....Small \$6.50 Large \$11.50
Beer battered & served with our
house fry sauce.

**Jalapenos - Cream Cheese
Poppers or Bottle Caps**
.....Small (6) \$6.50
.....or Large (12) \$11.50

Brew City French Fries
.....Small \$3.50 Large \$6.50
.....garlic & parmesan add \$2.00
Golden brown beer battered
French fries, served with our
house fry sauce.

Soups & Salads

Dressings:
Ranch, Bleu Cheese, Oil &
Vinegar, Thousand Island,
Caesar, Honey Mustard &
Raspberry Vinaigrette

Soup of the Day
.....Cup \$2.95
.....Bowl \$4.95

Green Salad
.....Small \$3.25
.....Large \$5.25
Romaine lettuce with tomatoes,
red onions, and croutons.

Traditional Caesar Salad
.....\$7.50
.....add anchovies \$10.00
Crisp romaine lettuce dressed
with our creamy Caesar dressing,
and topped with croutons and
parmesan cheese.
Add Salmon or Chicken to any
salad,\$4.50

Burgers

All burgers served with beer
battered fries. We use fresh,
grilled hamburger buns with
lettuce, tomato, pickles and onion
served on the side.

The Basic\$9.25
The name says it all!

Great Western\$11.50
Bacon, cheddar cheese and onion
rings smothered in BBQ sauce.

Bleu Cajun\$11.50
Rubbed in a fiery New Orleans
spice mix, grilled and topped with
bleu cheese.

All American\$11.50
Cheddar cheese and bacon,
everyone's favorite!

Dungeon\$11.50
Sautéed mushrooms and melted
Swiss for a perfect combo.

Burger "Ole"\$11.50
A spicy mix of pickled jalapeno
peppers, grilled onions and
pepper jack cheese. Ole!

Choose Your Patty

The Beef Patty

Our beef is ground in small
batches by Norm Pardini of the
Cloverdale Food Center. It is
fresh, never frozen.

The Veggie Patty

Morning Star Farms

The Turkey Patty

Fresh seasoned and juicy.
Not just for Thanksgiving any
more.

Chicken Breast

6oz grilled chicken breast

Add Cheese, Pepper Jack,
Swiss or Cheddar \$.75

Add bleu cheese, grilled onions,
mushrooms, bacon or jalapenos
\$1.50

Substitute Onion Rings for Fries
\$2.00

Fish & Chips

Flaky Alaskan Pollock, battered
with our Caroline's Blonde Ale,
and deep-fried to golden
perfection. Served with coleslaw &
Brew City Fries.

**1 piece/\$9.50 • 2 piece/\$11.50
3 piece/\$13.00**

Chicken & Chips\$11.50
Crispy fried chicken breast, served
with coleslaw and ranch dipping
sauce.

Big Wraps

Chicken Caesar\$11.50
Grilled chicken breast, romaine
lettuce, parmesan and tomato
tossed with Caesar dressing, in a
jumbo flour tortilla.

Crispy Chicken\$11.50
Deep-fried chicken breast strips
tossed with lettuce, tomato,
cheddar cheese and ranch dressing
in a jumbo flour tortilla.

Chipotle Chicken\$11.50
Chicken breast simmered in
chipotle sauce tossed with lettuce,
tomato, cheddar cheese & ranch
dressing.

Raspberry Chicken\$11.50
Grilled Chicken breast, lettuce,
apple & candied walnuts tossed
with Raspberry vinaigrette
dressing.

Sandwiches

Served with beer battered fries.

"The Reuben"\$12.00
Sliced corned beef brisket with
sauerkraut, melted Swiss cheese &
Russian dressing, served on grilled
light rye bread.

Johnsonville Bratwurst \$12.00
The classic Wisconsin Brats,
halved and grilled. Served with
caramelized onions on a soft
French roll.

Crispy Chicken\$11.50
Crispy fried chicken breast served
on a soft French roll with tomato,
pickles, lettuce & onions.

For The Kids

Burger & French Fries ..\$6.25
Chicken & Chips\$6.25
Mini Corn Dogs & Fries \$6.25

Save Room For

Hot Fudge Brownie Cake
.....\$5.25
Hot Fudge Brownie Cake. Need
we say more?

Sweet Street Cheesecake
.....\$5.25
New York Style

Join Ruth's



Traditional



Session
Nights

Join the
Mug Club!



RESOLUTION _____

AUTHORIZING ENTERING INTO NEGOTIATIONS WITH MARY ANN BRIGHAM FOR THE POTENTIAL LEASE OF A CITY-OWNED BUILDING AT 729/741 CENTRAL AVENUE FOR A BREWPUB/RESTAURANT

WHEREAS, The City of Tracy purchased the property at 729/741 Central Avenue (former West Side Market) in August 2011, for the purpose of revitalizing Downtown, and

WHEREAS, On December 1, 2011, the City published a Request for Letters of Interest with the aim of attracting a brewpub/restaurant to the City-owned property at 729/741 Central Avenue, and

WHEREAS, A Letter of Interest was received from Mary Ann Brigham on January 26, 2012, and

WHEREAS, Mary Ann Brigham has been operating Ruth McGowan's Brewpub in Cloverdale for the past 10 years;

NOW, THEREFORE BE IT RESOLVED That City Council authorizes staff to enter into negotiations with Mary Ann Brigham for the potential lease of a City-owned building at 729/741 Central Avenue for a brewpub/restaurant.

The foregoing Resolution 2012-____ was passed and adopted by the Tracy City Council on the 6th day of March 2012, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 7

REQUEST

APPOINT TWO APPLICANTS TO THE PLANNING COMMISSION

EXECUTIVE SUMMARY

There are two vacancies on the Planning Commission due to term expirations. A recruitment was conducted and appointments need to be made.

DISCUSSION

There are two vacancies on the Planning Commission due to term expirations. To fill the vacancies the City Clerk's office conducted a recruitment which opened on January 19, 2012, and closed on February 9, 2012. Four applications were received.

On February 27, 2012, a Council subcommittee consisting of Mayor Pro Tem Maciel and Council Member Abercrombie interviewed the applicants. In accordance with Resolution 2004-152, the Council subcommittee will recommend two applicants for appointment. The appointees will serve four year terms, which will begin on March 19, 2012, and end on March 18, 2016.

The subcommittee can recommend the Council establish an eligibility list to be used to fill any mid-term vacancy that might occur in the upcoming 12 months.

FISCAL IMPACT

None.

STRATEGIC PLAN

This is a routine operational item and is not related to the City's four strategic plans.

RECOMMENDATION

That Council approves the subcommittee's recommendation and appoints two applicants to the Planning Commission to serve four year terms which will begin on March 19, 2012, and end on March 18, 2016.

Prepared by: Carole Fleischmann, Assistant City Clerk
Reviewed by: Maria Hurtado, Assistant City Manager
Approved by: Leon Churchill, Jr., City Manager

March 6, 2012

AGENDA ITEM 9.A

REQUEST

CONSIDER AN ITEM FOR DISCUSSION ON A FUTURE CITY COUNCIL AGENDA RELATED TO REVIEWING IMPACT FEES PER ACRE ON A PROPORTIONAL USE BASIS

EXECUTIVE SUMMARY

Determine whether an item should be placed on a future Council agenda to review impact fees per acre on a proportional use basis.

DISCUSSION

At the City Council meeting held on February 21, 2012, Council Member Rickman requested that the Council consider placing an item on a future City Council agenda to review impact fees per acre on a proportional use basis.

The purpose of this agenda item is to provide an opportunity for Council to discuss whether staff time and city resources should be devoted to research and outreach, and to determine whether a discussion item related to reviewing impact fees per acre on a proportional use basis should be placed on a future agenda. An item placed on a future agenda would enable the City Council to discuss the item in detail.

RECOMMENDATION

It is recommended that the City Council discuss and determine whether an item related to reviewing impact fees per acre on a proportional use basis should be placed on a future City Council agenda for discussion.

Prepared by: Carole Fleischmann, Assistant City Clerk

Reviewed by: Maria Hurtado, Assistant City Manager

Approved by: Leon Churchill, Jr., City Manager