AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND THE CITY OF SAN JOSE

This is an Agreement by and between the County of Santa Clara ("County") and the City of San Jose ("Provider" and/or "Contractor") to provide funding for the purchase of products or services that benefit the Santa Clara County Emergency Medical Services ("EMS") system.

The parties agree to comply with the General Terms and Conditions contained in Sections 1-26 of this Agreement and provisions contained in Exhibit A: Scope of Service and Exhibit B: Insurance Requirements, which are attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Agreement in duplicate originals.

COUNTY

_____

S. Joseph Simitian **Date**
President
Board of Supervisors

CITY OF SAN JOSE

_____

Leland Wilcox **Date**
Chief of Staff
City of San Jose

ATTEST

_____

Megan Doyle **Date**
Clerk of the Board of Supervisors

Approved BY:

_____

Rene G. Santiago Date
Deputy County Executive
Santa Clara Valley Health & Hospital System

Approved BY:

_____

John Cookinham Date
Chief Financial Officer
Santa Clara Valley Health & Hospital System

APPROVED AS TO FORM AND LEGALITY BY:

_____

Jenny S. Lam **Date**
Deputy County Counsel

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

THEREFORE, COUNTY and CONTRACTOR agree as follows;

1. Background

To support the Santa Clara County EMS System, the County may provide funding to EMS First Responders for the purchase of products or services that provide a benefit to the Santa Clara County EMS System. All products or services must adhere to the requirements mandated by the Santa Clara County Prehospital Policy 309 – Comprehensive EMS Patient Care Data System ("Prehospital Policy 309").

2. Term

This Agreement is effective as of the date it is fully executed through December 31, 2018 unless terminated earlier in accordance with Section 5.

3. Compensation and Payment

a. The maximum financial obligation for all services provided under this Agreement shall not exceed **$472,706.06** for the term of the Agreement. The County does not guarantee any minimum compensation payable under this Agreement.

b. Contractor shall invoice County for the purchase of approved hardware and/or services under this Agreement to the satisfaction of County according to Exhibit A (Scope of Services). Contractor's invoices shall be in a form that is acceptable to County. Contractor must submit supporting data and documentation, such as third party receipts, as requested by the County.

All payments made under this Agreement shall be subject to an audit at County's option, and shall be adjusted in accordance with said audit. Adjustments found necessary as a result of auditing shall be reimbursed back to the County in full.

c. County shall inform Contractor of any disputed invoice and the parties shall use their best efforts to resolve such disputes expeditiously. Any undisputed portion of the invoice shall be paid without delay as set forth above. County shall not pay any disputed portion of any invoice until Contractor has resolved the dispute to the satisfaction of the County. After disputed charges are substantiated and approved, County shall make payment to the Contractor accordingly.

d. The parties agree that the payment term shall be the term selected below and payment shall be due in accordance with the selected payment term. For example, if Contractor selects 2.25% 10 Net 45 as the payment term, payment shall be due 10 days from the date the County approves the invoice, instead of 45 days, and the County shall take a discount of 2.25% of the total amount of the invoice. Payment is deemed to have been made on the date the County mails the warrant or initiates the electronic fund transfer.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

☐ 2.25% 10 Net 45 (provides 35 days of cash acceleration)
☐ 2.00% 15 Net 45 (provides 30 days of cash acceleration)
☐ 1.75% 20 Net 45 (provides 25 days of cash acceleration)
☐ 1.33% 25 Net 45 (provides 20 days of cash acceleration)
☐ 1.00% 30 Net 45 (provides 15 days of cash acceleration)
☐ Net 45 (full payment)

Note: Payment term will default to "Net 45 (full payment)", if no other term was selected. Notwithstanding the option selected above, the parties agree that at any time during the contract term, either party may initiate an early payment discount on an invoice-by-invoice basis utilizing the Dynamic Discounting functionality of the Ariba Network.

Contractor must have a registered account on the Ariba Network to utilize this functionality.

4. Indemnification & Insurance

a. Indemnity: Contractor will indemnify County as set forth in Exhibit B (Insurance Requirements).

b. Insurance: Without limiting the Contractor's indemnification of the County, the Contractor will provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the insurance coverages and provisions set forth in Exhibit B (Insurance Requirements). Contractor agrees that failure to provide evidence of such required insurance coverages and provisions will result in the County withholding payment until all such evidence is provided to the County.

5. Termination

a. County may terminate this Agreement at any time, without cause, by providing thirty (30) days prior written notice in the manner described in Section 10. Termination shall take effect automatically upon the expiration of the thirty (30) day notice period.

b. County may terminate this Agreement for cause upon 14 days written notice to Provider. For the purposes of this Agreement, "cause" includes, but is not limited to, any of the following: a) Assignment, delegation, or subcontracting by Provider of this Agreement without the prior written consent of the County, which County may withhold in its sole and absolute discretion, b) Violation by Provider of any applicable laws, rules, regulations, policies, or procedures, c) Failure to respond to requests for information as required by this Agreement,

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

and d) Any other material breach of this Agreement by Provider. Such notice shall specify the reason for termination and shall indicate the effective date of such termination.

c. This Agreement is contingent upon the existence of a current 911 Emergency Medical Services Provider Agreement ("EMS Agreement") between the County and the Provider. If the EMS Agreement is terminated or expires without a successor in place, this Agreement shall automatically terminate concurrent with the termination or expiration of the EMS Agreement.

6. Status of Parties

This is an Agreement by and between independent contractors and shall not be construed to create an employment, agency partnership, or joint venture relationship. Neither Contractor nor its employees or agents shall be considered County employees, and they shall not be entitled to any of the benefits enjoyed by County employees, including, but not limited to, salary, vacation pay, sick pay, retirement, or workers' compensation, unemployment benefits, or any other County employee benefits.

7. Assignment

This Agreement shall not be assigned, in whole or in part, without the prior written consent of the County.

8. Contracting Principles

Contractor agrees to comply with the County's Contracting Principles set forth in the Board Policy Manual. The Contracting Principles require, among other things, that Contractor be a fiscally responsible entity and treat its employees fairly. Contractor is also required to (1) comply with all applicable federal, state and local rules, regulations and laws; (2) maintain financial records, and make those records available upon request; (3) provide to the County copies of any financial audits that have been completed during the term of the contract; and (4) upon the County's request, provide the County reasonable access, through representatives of the Contractor, to facilities, financial and employee records that are related to the purpose of the contract, except where prohibited by federal or state laws, regulations or rules**.**

9. Compliance With All Laws, Including Nondiscrimination, Equal Opportunity and Wage Theft Prevention

(1) Compliance with All Laws. Contractor shall comply with all applicable Federal, State, and local laws, regulations, rules, and policies (collectively, "Laws"), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

(2) Compliance with Non-Discrimination and Equal Opportunity Laws: Contractor shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County's policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Gov. Code § 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Contractor shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall Contractor discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

(3) Compliance with Wage and Hour Laws: Contractor shall comply with all applicable wage and hour Laws, which may include but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local minimum wage, prevailing wage, or living wage Laws.

(4) Definitions: For purposes of this section, the following definitions shall apply. A "Final Judgment" shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of a pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual's sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose's Office of Equality Assurance.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

(5) Prior Judgments, Decisions or Orders against Contractor: By signing this Agreement, Contractor affirms that it has disclosed any final judgments that (A) were issued in the five years prior to executing this Agreement by a court, an investigatory government agency, arbiter, or arbitration panel and (B) found that Contractor violated an applicable wage and hour law or pay equity law. Contractor further affirms that it has satisfied and complied with – or has reached Agreement with the County regarding the manner in which it will satisfy – any such final judgments.

(6) Violations of Wage and Hour Laws or Pay Equity Laws During Term of Contract: If at any time during the term of this Agreement, Contractor receives a Final Judgment rendered against it for violation of an applicable wage and hour Law or pay equity Law, then Contractor shall promptly satisfy and comply with any such Final Judgment. Contractor shall inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM) of any relevant Final Judgment against it within 30 days of the Final Judgment becoming final or of learning of the Final Judgment, whichever is later. Contractor shall also provide any documentary evidence of compliance with the Final Judgment within 5 days of satisfying the Final Judgment. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 W. Hedding Street, East Wing, 11th Floor, San José, CA 95110. Notice provisions in this paragraph are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.

(7) Access to Records Concerning Compliance with Pay Equity Laws: In addition to and notwithstanding any other provision of this Agreement concerning access to Contractor's records, Contractor shall permit the County and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the County's request, Contractor shall provide the County with access to any and all facilities and records, including but not limited to financial and employee records, that are related to the purpose of this Section 9, except where prohibited by federal or state laws, regulations or rules. County's access to such records and facilities shall be permitted at any time during Contractor's normal business hours upon no less than 10 business days' advance notice.

(8) Pay Equity Notification: Contractor shall (1) at least once in the first year of this Agreement and annually thereafter, provide each of its employees working in California and each person applying to Contractor for a job in California (collectively, "Employees and Job Applicants") with an electronic or paper copy of all applicable pay equity Laws or (2) throughout the term of this Agreement, continuously post an electronic copy of all applicable pay equity Laws in conspicuous places accessible to all of Contractor's Employees and Job Applicants.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

(9) Material Breach: Failure to comply with any part of this Section 9 shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and at law. County may, among other things, take any or all of the following actions:

(i) Suspend or terminate any or all parts of this Agreement.
(ii) Withhold payment to Contractor until full satisfaction of a Final Judgment concerning violation of an applicable wage and hour Law or pay equity Law.
(iii) Offer Contractor an opportunity to cure the breach.

(10) Subcontractors: Contractor shall impose all of the requirements set forth in this Section 9 on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment for violation of an applicable Law promptly satisfies and complies with such Final Judgment.

10. Notices

All notices required by this Agreement shall be deemed given when in writing and delivered personally, or five (5) days after deposited in the United States mail, postage prepaid, return receipt request, addressed to the other party at the address set forth below or at such other address as the party may designate in writing in accordance with this section.

To COUNTY:	To CONTRACTOR:
Jackie Lowther, RN, EMS Director	Robert Sapien Jr, Fire Chief
Santa Clara County EMS Agency	City of San Jose
700 Empey Way	1661 Senter Road, 3rd Floor
San Jose, California 95126	San Jose, California 95112

11. Monitoring & Records

a. <u>Monitoring</u>

Provider shall permit the County and its authorized representatives to monitor Provider's performance of this Agreement. To the extent permitted by law, such monitoring may include, but is not limited to, audits and review of records related to this Agreement. Upon County's request, Provider shall provide the County with access, through representatives of the Provider, to facilities, financial and employee records that are related to the purpose of this Agreement, except where prohibited by federal or state laws, regulations or rules. Monitoring by the County shall be permitted at any time during Provider's normal business hours upon no less than ten (10) business days advance written notice and may occur up to one year following termination of the Agreement. Provider shall also provide to the County copies of any financial audits that have been completed during the term of the contract within one week of the completion of such audit.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

Provider shall designate a project coordinator responsible for overseeing the performance of this Agreement, and serving as County's primary contact for the purpose of monitoring this Agreement. Provider's project coordinator shall cooperate with the County's periodic review of Provider's performance. Provider shall notify County in writing of the designation of the project coordinator and any change thereto.

b. Maintenance and Availability of Records

Provider shall maintain records including, but not limited to, service and financial records adequate to demonstrate that the project is achieving its purpose, that billing is accurate, that all applicable local, state, and federal laws, rules, regulations, policies and procedures are met, and that adequate internal fiscal controls are maintained. These records shall be made available to representatives of the County of State of California or federal government upon request. All records pursuant to this Agreement shall be maintained for the term of this Agreement and for a period of five (5) years from termination or expiration of this Agreement or until all claims, if any, have been resolved, whichever period is longer, or longer if otherwise required under the provisions of this Agreement.

12. Equipment

a. Purchases of Equipment

Provider must maintain a log of any equipment purchased with funds received pursuant to this Agreement that includes a detailed description of the equipment purchased, the brand name, model number, serial number, and location.

b. Equipment Maintenance

Provider is solely responsible for any storage, service, training, and maintenance costs associated with any equipment and supplies purchased as a result of this Agreement.

c. Ownership of and Responsibility for Equipment and Supplies

Any equipment and supplies purchased under this Agreement shall be considered the property of Provider. Provider shall maintain and administer a sound business program for ensuring the proper use, maintenance, protection, insurance, and preservation of equipment purchased under this Agreement. Provider may not sell, transfer, or otherwise dispose of any equipment or supplies purchased under this Agreement without prior written approval by County, which may be withheld in County's sole and absolute discretion; provided, however, that Provider may dispose of equipment without County's approval at the end of the equipment's useful life or if Provider can demonstrate that it will maintain the same capability provided by the equipment to be disposed. Provider shall take reasonable steps to ensure that all equipment and supplies purchased under this Agreement are made available for use pursuant to a bonafide request for mutual-aid or inter- agency disaster assistance.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

13. Entire Agreement

This Agreement, including all Exhibits, represents the entire agreement of the parties and supersedes any previous agreements between the parties relating to the same subject matter.

14. Amendments

This Agreement may only be amended by a written instrument signed by the parties.

15. Governing Law

This Agreement shall be construed and enforced in accordance with the laws of the State of California without considering choice of law rules. The parties agree to submit to the jurisdiction of the federal and state courts located in the County of Santa Clara. The parties agree that venue shall be Santa Clara County for all purposes.

16. Conflict of Interest

Contractor shall comply, and require its subcontractors to comply, with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the County.

In accepting this Agreement, Contractor covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. Contractor further covenants that, in the performance of this Agreement, it will not employ any contractor or person having such an interest. Contractor, including but not limited to contractor's employees and subcontractors, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the "Act"), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, Contractor shall, upon execution of this Agreement, provide the County with the names, description of individual duties to be performed, and email addresses of all individuals, including but not limited to Contractor's employees, agents and subcontractors, that could be substantively involved in "making a governmental decision" or "serving in a staff capacity and in that

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

capacity participating in making governmental decisions or performing duties that would be performed by an individual in a designated position," (2 CCR 18701(a)(2)), as part of Contractor's service to the County under this Agreement. Contractor shall immediately notify the County of the names and email addresses of any additional individuals later assigned to provide such service to the County under this Agreement in such a capacity. Contractor shall immediately notify the County of the names of individuals working in such a capacity who, during the course of the Agreement, end their service to the County.

If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, Contractor shall ensure that all such individuals identified pursuant to this section understand that they are subject to the Act and shall conform to all requirements of the Act and other laws and regulations listed in subsection (A) including, as required, filing of Statements of Economic Interests within 30 days of commencing service pursuant to this Agreement, annually by April 1, and within 30 days of their termination of service pursuant to this Agreement.

17. California Public Records Act

The County is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Contractor's proprietary information is contained in documents or information submitted to County, and Contractor claims that such information falls within one or more CPRA exemptions, Contractor must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the County will make best efforts to provide notice to Contractor prior to such disclosure. If Contractor contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before the County is required to respond to the CPRA request. If Contractor fails to obtain such remedy within the time the County is required to respond to the CPRA request, County may disclose the requested information.

Contractor further agrees that it shall defend, indemnify and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and attorney's fees) that may result from denial by County of a CPRA request for information arising from any representation, or any action (or inaction), by the Contractor.

18. Waiver

No delay or failure to require performance of any provision of this Agreement shall constitute waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

19. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be in original, but all of which together shall constitute one and the same instrument.

20. Severability

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid, or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

21. County No-Smoking Policy

Contractor and its employees, agents and subcontractors, shall comply with the County's No Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles.

22. Budget Contingency

This Agreement is contingent upon the appropriation of sufficient funding by the County for the services covered by this Agreement. If funding is reduced or deleted by the County for the services covered by this Agreement, the County has the option to either terminate this Agreement with no liability occurring to the County or to offer an amendment to this Agreement indicating the reduced amount.

23. Use of Names and Logos

Neither party to this Agreement shall be permitted to use the other's name, logo or corporate identity for any purpose without prior written consent for the party whose name, logo or corporate identity is to be used. If either party provides such consent, the party using the name, logo or corporate identity agrees to discontinue such use upon thirty (30) days' prior notice from the consenting party.

24. Assignment of Clayton Act, Cartwright Act Claims

Contractor hereby assigns to the County all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (14 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Contractor for sale to the County pursuant to this Agreement.

25. Survival

All representations and warranties contained in Section 16 of this Agreement and in any instrument, certificate, exhibit, or other writing attached hereto and incorporated

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

herein will survive the termination or expiration of this Agreement. In addition, Sections 3, 11, 12 and 15 shall survive termination or expiration of this Agreement.

26. Contract Execution Policy

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the County.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

Exhibit A
SCOPE OF SERVICES

A. Background

For the benefit of the County EMS System, the County may provide EMS First Responders with funding to support certain projects described below.

1. Fire Department Hardware to Support Prehospital Policy 309 implementation

a. Funds may be used to reimburse EMS First Responders for hardware or services that will support the Santa Clara County Comprehensive EMS Patient Care Data System.

b. Purchases may consist of desktop and laptop computers, connectivity, peripherals, and/or services. Such purchases must be preapproved by the County.

2. Fire Department Field Capture

Funds may be used to reimburse EMS First Responders for costs associated with the purchase of devices and supporting hardware required to meet field capture requirements for patient care records, as set forth in Prehospital Policy 309. In order to receive reimbursement, EMS First Responders shall:

a. Procure and place into service field capture hardware that will enable the collection of patient care data at the patient's side. This may consist of tablets, laptops, or other remote data collection devices that support the ImageTrend-based EMS Data System, as approved in advance by the EMS Agency.

b. Procure and place into service field capture hardware that will transmit patient care data electronically from the scene of an EMS response to the server identified by the EMS Agency.

3. Video Laryngoscopes

Funds may be used to reimburse EMS First Responders for the costs associated with the purchase of video laryngoscopes to be deployed on paramedic units operated by EMS First Responders. The funding provided is anticipated to cover approximately 50% of Providers permitted paramedic units.

a. EMS First Responders may only purchase the EMS Agency approved KingVision Video Laryngoscope (Reusable Digital Display).

b. EMS First Responders must place into service and use the equipment on approximately 50% of Providers permitted paramedic units.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

Funding provided to EMS First Responders for any of the above-described projects is contingent upon compliance with the following requirements:

1. On or before November 1, 2018, EMS First Responders shall provide documentation sufficient to show proof of purchase of products or services, and that all purchases are in compliance with the requirements set forth in this Scope of Service. If an EMS First Responder has not expended the funds prior to November 1, 2018, the EMS First Responder must return all allocated funds.

2. On or before December 31, 2018, EMS First Responders shall provide documentation sufficient to show proof that 1) field capture devices and computers are effectively running the required data systems, and 2) that video laryngoscopes have been deployed and are in use.

3. Patient care data must be received by the Server consistent with Prehospital Policy 309.

B. <u>Funds Allocation for Provider</u>

The County's maximum financial obligation under this Agreement shall not exceed $472,706.06 for the term of the Agreement. Subject to the requirements set forth above, Provider may be reimbursed for the following approved purchases:

Project	**Available Funds**
Project 1: Fire Dept. Hardware to support Prehospital Policy 309 implementation Project 2: Fire Dept. Field Capture	$414,874.94
Project 3: Video Laryngoscopes	$57,831.12
TOTAL	**$472,706.06**

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

EXHIBIT B
INSURANCE REQUIREMENTS FOR
STANDARD CONTRACTS ABOVE $100,000
(REVISED 9/2016)

Indemnity

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

1. Commercial General Liability Insurance – for bodily injury (including death) and property damage which provides limits as follows:

    a. Each occurrence - $1,000,000

    b. General aggregate - $2,000,000

    c. Products/Complete Operations aggregate - $2,000,000

    d. Personal Injury - $1,000,000

2. General liability coverage shall include:

    a. Premises and Operations

    b. Products/Completed

    c. Personal Injury liability

    d. Severability of interest

3. General Liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

> "County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds."

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars ($1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

4a. Aircraft/Watercraft Liability Insurance (Required if Contractor or any of its agents or subcontractors will operate aircraft or watercraft in the scope of the Agreement.)

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars ($1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired aircraft/watercraft.

5. Workers' Compensation and Employer's Liability Insurance

a. Statutory California Workers' Compensation coverage including broad-form all-states coverage.

b. employer's Liability coverage for not less than one million dollars ($1,000,000) per occurrence.

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.

2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractors obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.