

10047

**CONTRACT BETWEEN
THE CITY OF JACKSONVILLE
AND
FIELD DATA SOLUTION, INC.
FOR
MOSQUITO CONTROL MANAGEMENT SYSTEM REPLACEMENT**

THIS CONTRACT is made and entered into as of September 30, 2014 (the "Effective Date"), by and between the CITY OF JACKSONVILLE (the "CITY"), a municipal corporation existing under the Constitution and the laws of the State of Florida, and FIELD DATA SOLUTIONS, INC., d/b/a Electronic Data Solutions, an Idaho corporation with its principal offices at 154 1st Avenue West, Jerome, ID 83330 ("ELECDATA").

WHEREAS, the CITY issued a Request for Proposals #ESC-0507-14 (together with Addenda 1, 2 and 3, the "RFP") for certain Mosquito Control Management System Replacement services (the "Services"); and

WHEREAS, based on ELECDATA'S response to the RFP dated July 7, 2014, consisting of 159 pages (the "Response"), the CITY has awarded this Contract to ELECDATA;

NOW THEREFORE, in consideration of the premises and the mutual covenants contained below, the parties agree as follows:

1. **Performance of Services.** The Services will be performed by ELECDATA as specified in the RFP and the Response.

2. **Compensation.** ELECDATA will be paid by the CITY for the Services as specified on the Price Proposal attached as **Exhibit A** hereto. The parties acknowledge that (i) the Project Schedule Start Date will be October 1, 2014 instead of August 1, 2014; (ii) the Warranty and Maintenance periods will run from the Project Go-Live Date; and (iii) the CITY is allocating an additional \$9,473 under this Contract for contingencies and additional services that may be needed over the course of the agreement based on written purchase orders.

3. **Maximum Indebtedness.** As required by Section 106.431, *Ordinance Code*, the CITY's maximum indebtedness, for all products and services purchased under this Contract shall be a fixed monetary amount not-to-exceed ONE HUNDRED THIRTY-EIGHT THOUSAND TWO HUNDRED SIXTY-EIGHT AND 00/100 (\$138,268.00).

4. **Term of Contract.** The initial term of this Contract shall commence on the Effective Date and shall expire five years after the Go-Live Date, unless sooner terminated by either party in accordance with the terms of the RFP.

5. **Intellectual Property.** In lieu of Sections 3.9 and 3.10 of the RFP, the parties agree as follows:

(i) For all Pre-Existing Materials, software programs, or source code and any customized materials and software programs, all inventions, discoveries, intellectual property including copyrights and trademarks, technical communications and records originated or prepared by ELECDATA under this Contract, including papers, reports, charts, computer programs, and other documentation or improvements thereto, shall be ELECDATA's exclusive property.

(ii) For any customized software programs developed for use under this Contract, ELECDATA shall provide a non-exclusive, non-transferable, fully-paid, perpetual, irrevocable, royalty-free worldwide license to CITY at no charge, to use and copy, all work or derivatives that would be needed in order to CITY to continue to perform for itself.

(iii) If ELECDATA ceases to do business (whether by bankruptcy or insolvency) or refuses to provide maintenance (provided CITY is current on Maintenance fees), or if this Contract is terminated for cause by CITY due to ELECDATA's material breach of this Contract, ELECDATA shall make available, at no cost, to CITY the most recent customized software programs functionality; pre-existing materials - that are relevant to, setup, configuration, and operation of the System, including, but not limited to, a complete copy of the source and executable code, not including third party software code or libraries, build scripts, object libraries, application program Interfaces, and complete documentation of all aspects of the system including, but not limited to, compiling instructions, design documentation, technical documentation, user documentation, hardware and software specifications, drawings, records, and related data ("Materials").

(iv) CITY shall have the right to copy, modify and use said Material for customized software programs. Upon release of the Material, CITY agrees that (a) ELECDATA retains ownership of the Material, (b) the Material is licensed to CITY subject to the restrictions of this Contract, (c) CITY may not remove or destroy any proprietary markings or legend placed upon or contained with the Material, (d) CITY may not market, sell, publish, transfer, disclose or otherwise make available the Material to any third party not permitted by this Contract to use the Licensed Software, (e) CITY shall hold the Material of ELECDATA in strict confidence and not make any disclosure except as necessary for its use thereof, and (f) except when actually being utilized for the sole purpose of continuing the benefits afforded to CITY by the Contract, CITY shall keep the Material in a restricted, limited access area with access thereto limited to designated personnel of CITY who have a need to use the Material for the purposes permitted hereunder for the duration of time as necessary to complete such permitted purpose. CITY shall return all Material if the event giving rise to the release of the Material is cured by ELECDATA.

6. **Contract Documents.** This Contract consists of the following documents which are incorporated herein and which, in case of conflict, shall have priority in the order listed:

- This document, as modified by any subsequent signed amendments.
- The RFP (as amended by Addenda 1, 2 and 3).
- Any Purchase Order issued under the Contract.
- The Response.

7. **Notices.** All notices under this Contract shall be in writing and be delivered by certified mail, return receipt requested, or by other delivery with receipt to the following:

As to the CITY:

City of Jacksonville
ITD Contracts Manager
214 N. Hogan Street, 9th Floor
Jacksonville, FL 32202

With copy to:

City of Jacksonville
Office of General Counsel
117 West Duval Street, Suite 480
Jacksonville, FL 32202

As to ELECDATA:

Field Data Solutions, Inc.
1544 1st Avenue West
Jerome, ID 83330

8. **Contract Managers.** Each party will designate a Contract Manager whose responsibility shall be to oversee the party's performance of its duties and obligations pursuant to the terms of this Contract. As of the Effective Date, CITY'S Contract Manager is [TBD], and ELECDATA'S Contract Manager is **Linda Dean Glover**. Each party shall provide prompt written notice to the other party of any changes to the party's Contract Manager or his or her contact information; provided, such changes shall not be deemed Contract amendments and may be provided via email.

9. **Entire Agreement.** This Contract constitutes the entire agreement between the parties hereto for the Services to be performed by ELECDATA. No statement, representation, understanding, agreement or course of conduct made by either party or any representative of either party, which is not expressed herein shall be binding. ELECDATA acknowledges that it is entering into this Contract for its own purposes and not for the benefit of any third party.

10. **Amendments.** All changes, additions, modifications, or amendments to this Contract shall be binding only when in writing and signed by the authorized officer, agent or representative of each of the parties hereto.

11. **Counterparts.** This Contract, and all amendments thereto, may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year first above written.

ATTEST:

Karen Bowling
Chief Administrative Officer
CITY OF JACKSONVILLE
For: Mayor Alvin Brown
Under Authority of:
Executive Order No. 2013-04

By James R. McCain, Jr.
James R. McCain, Jr.
Corporation Secretary



By Alvin Brown
Alvin Brown
Mayor

In accordance with the Ordinance Code of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and un-impounded balance in the appropriation sufficient to cover the foregoing agreement; and that provision has been made for the payment of monies provided therein to be paid.

C. Ronald Belton
Director of Finance
CITY Contract Number: 10047 *1082*

Form Approved:

Reg 158918 *WA* 10/6/14

Fittch
Office of General Counsel

ATTEST:

FIELD DATA SOLUTIONS, INC.

By Pam O'Dell
Signature

By Linda Dean Glover
Signature

Pam O'Dell
Type/Print Name

Linda Dean Glover
Type/Print Name

Office Manager
Title

Co-Owner, VP/Marketing & Sales
Title

EXHIBIT A

Attach the 9-Page Price Proposal from ELECDATA's Response (pages 54-62)



Price Proposal Explanation

For the pricing proposal we have assumed an on-premise deployment for 10 concurrent office users and 12 mobile users of FieldSeeker GIS in calculating pricing as a starting point for post award negotiations. We have included an additional ArcGIS for Server Enterprise (Standard) license in the "FieldSeeker GIS Enterprise Starter" bundle below, based on Addendum #3 responses indicating that an additional ArcGIS Server license would be needed. We can assist in determining whether another Server license is really needed and if not, adjust the price of the platform software licenses down accordingly. The existing ArcGIS for Server Enterprise (Advanced) license makes unlimited ArcGIS for Mobile licenses available for the FieldSeeker Mobile deployment, so we have not included any pricing for ArcGIS Mobile licenses.

The pricing below can be adjusted according to the actual number of licenses the City of Jacksonville Mosquito Control needs.

On-Premise Installation Option:

QTY	Part No.	Description	Unit Price	Extended Price
1	MOS-ESB-BPkg-Cust	FieldSeeker GIS Enterprise Starter – Core Only includes Larviciding, Surveillance, Service Request Bundled with Esri ArcGIS for Server Enterprise Standard (includes 1 Office and 5 Mobile licenses for FieldSeeker)	\$23,000	\$23,000
9	MOS-FSO-Core	FieldSeeker Office Core per user license includes Larviciding, Surveillance and Service Request applications (9 additional concurrent office users)	\$1,500.00	\$13,500
7	MOS-FSM-Core	FieldSeeker Mobile Core per user license includes Larviciding, Surveillance and Service Request applications (7 additional mobile licenses)	\$1,000.00	\$7,000



		Per Year Cost Starting Year 2	
		Additive Annual Maintenance (that includes technical support) For Year 2 through Year 5 \$7,220 x 4	\$28,880

Please note: Annual Software Maintenance for the required Esri ArcGIS for Server Platform needs to be purchased directly from Esri.

Total Five Year Total Cost of Ownership/Service:

Year One – without performance bond	\$ 99,315
Year Two – Five	\$ 28,880
Total Five Year Cost of Ownership/Service Without Performance Bond	\$128,195
Total Five Year Cost of Ownership/Service With Performance Bond	\$128,795

MOS-ESB-BPkg includes Esri ArcGIS for Server Enterprise Standard & FieldSeeker Licenses:

- On-premise deployment of Esri ArcGIS for Server Enterprise Standard
- On-premise deployment of Elecdata FieldSeeker GIS for Mosquito Control Office Core (Larviciding, Surveillance, and Service Request), one (1) office user
- FieldSeeker Mobile Core (Larviciding, Surveillance, and Service Request) 5-Pack User Licenses
- First year Esri ArcGIS for Server Enterprise Standard Maintenance & Support included
- First year FieldSeeker Office & Mobile Maintenance & Support included

Timeline and Deliverables

The following project timeline assumes a bid award and contract by August 1, 2014. It is an estimate, subject to modification and adjustment. We will work closely with City of Jacksonville Project Manager(s), Mosquito Control managers, supervisors, and staff and continually update a project timeline based on regular communication via conference calls and email.

(Project Schedule on Next Page)



Payment Terms

Terms on software and implementation deliverables are Net 30 days (upon approved credit) after delivery date listed on the Deliverable Timetable. Dates are expressed in the number of calendar days.

Deliverable	Amount	Date - Assuming August 1 Start Date
Performance Bond	\$ 600	9/1/14
Mobile Hardware	\$21,540	9/1/14
Software Platform Licenses	\$42,475	9/1/14
Data Conversion	\$8,000	10/17/14
Software Customizations (CARE Integration, AVL Integration)	\$16,000	11/28/14
Software Customizations (attachments)	\$4,800	1/30/15
On-Site Training	\$6,500	Go-Live (3/1/15)
Software Maintenance (FieldSeeker GIS)	\$7,220	9/1/15

Please note: Software Maintenance for the required Esri ArcGIS for Server Platform must be purchased directly from Esri.

Warranty, Maintenance and Support

During the warranty or maintenance period covering FieldSeeker GIS software (minimum one (1) year from purchase), the following are provided:

1. Technical support services from 8:00 a.m. to 5:00 p.m. EST, Monday through Friday
2. Phone and email support with multiple points of contact for routine and emergency support
3. Request prioritization and corrective action according to the following:
 - a. Initiate a response by telephone to the City within one (1) business hour of the time recorded on the initial request for service by City of a Critical Problem (a problem that prevents the software from operating in a production environment



priority to the City than to other customers). Custom Software features are outside of the scope of the maintenance agreement, and would require a separate scope of work and would incur a separate expense.

4. Follow-up remote support after successful rollout of components.
5. Ongoing application support through a maintenance agreement. One year is included with purchase of software licenses, with annual renewal available.
6. Ongoing technical support for hardware provided as part of this proposal. Hardware not provided as part of this proposal may be supported by specific written agreement between Contractor and City, at an additional expense.
7. Ongoing system maintenance, including database tuning, monitoring, patches, diagnosis, backup, recovery, and version upgrades. Contractor works directly with the City on application modifications, diagnosis, recovery, customization, configuration and how-to questions.

Warranty

Elecdata represents and warrants to Licensee that:

1. It has the right to grant the licenses set forth in this Agreement.
2. Any service rendered by Elecdata will be performed in a professional manner by qualified personnel.
3. The Licensed Software as delivered to Licensee and when used by Licensee for its intended purpose without modification (except those modifications made by Elecdata as requested by Licensee or those modifications supported as part of the software design and represented in user documentation) does not and will not infringe, violate or invade any valid US or foreign copyright, trademark, or patent or other intellectual property rights of any third party protected under any laws of the United States.
 - a. If the Licensed Software is found to be infringing, then Elecdata will for the Licensed Software:
 - i. Obtain the rights for Licensee to continue to Use the Licensed Software,
 - ii. If technically feasible, modify the Licensed Software so that it is no longer infringing,
 - iii. Replace the Licensed Software; or
 - iv. Terminate this Agreement.
 - b. If Elecdata cannot accomplish any of these remedies, Elecdata will refund all fees paid to Licensee.
4. The Licensed Software, when delivered and installed on the recommended hardware and with the appropriate database and prerequisite 3rd-party software as defined in the



- c. ElecdData will indemnify, defend and hold harmless Licensee and Licensee's employees, directors, officers, subcontractors, agents and assigns against any actual and direct losses and liability (including, but not limited to, attorney's fees) arising out of or based upon ElecdData's negligence or wrongful acts or omissions. ElecdData will, at its own cost, defend, or at its option, settle, and claim, suit, or proceeding brought against Licensee arising out of or in connection with any of ElecdData's indemnification obligations hereunder. Licensee will provide with prompt written notice of any such claim, suit, or proceeding and will give ElecdData reasonable information and assistance to settle and/or to defend. ElecdData will not be liable for any costs or expenses incurred by Licensee without ElecdData's prior written authorization and Licensee will have no right to settle such claim, suit or proceeding without ElecdData's prior written authorization. Either Party will have the right to participate in any settlement, claim, suit or proceeding at its own expense.
 - d. Licensee will indemnify, defend and hold harmless ElecdData and ElecdData's employees, directors, officers, subcontractors, agents and assigns against any actual and direct losses and liability (including, but not limited to, attorney's fees) arising out of or based upon Licensee's negligence or wrongful acts or omissions. Licensee will, at its own cost, defend, or at its options, settle, any claim, suit, or proceeding brought against ElecdData arising out of or in connection with any of Licensee's indemnifications obligations hereunder. ElecdData will provide with prompt written notice of any such claim, suit, or proceeding and will give Licensee reasonable information and assistance to settle and/or to defect. Licensee will not be liable for any costs or expenses incurred by ElecdData without Licensee's prior written authorization and ElecdData will have no right to settle such claim, suit or proceeding without Licensee's prior written authorization. Either Party will have the right to participate in any settlement, claim, suit or proceeding at its own expense.
10. Except for the foregoing warranties, the licensed software is provided without any other expressed or implied warranty of merchantability or fitness for a particular purpose.