

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONSENT AGENDA REQUEST

TO: Board of Commissioners

FROM: David Shambley

DATE: August 8, 2011

RE: Annual Telephone Maintenance for the Courthouse - Stargate Technologies, Inc.

STATEMENT OF ISSUE:

The annual maintenance agreement with Stargate Technologies, Inc. is for providing technical services for the Millennium telephone system including hardware and software.

ANALYSIS:

Entering into the agreement for 2011-2012 will ensure that telephone system for the Courthouse is operational and in the event of equipment or software failure will be repaired in a timely manner to minimize the impact on county business.

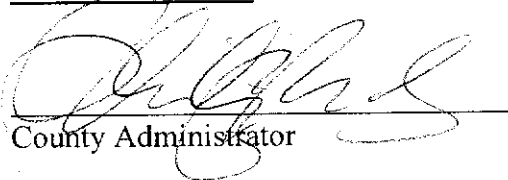
FISCAL IMPACT:

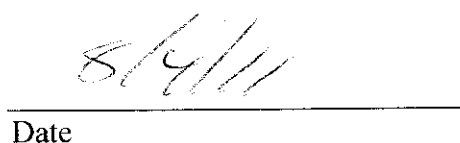
Cost is within the current Information Services Budget. Total annual cost is \$13,702.61

RECOMMENDATION:

Approve and authorize the Board of County Commissioner Chairman to sign the Stargate Technologies Annual Phone Maintenance Agreement for the Courthouse.

REVIEWED BY:


County Administrator


Date



TECHNICAL SERVICES AGREEMENT

Purchaser Jefferson County Court House	Agreement No.: 0000JCC11
Billing Address: P O Box 1220 Port Townsend, WA. 98368	
Service Address: 1820 Jefferson St. Port Townsend, WA. 98368	Effective Date: 9-1-2011
Facsimile No: 360-385-9195	Phone No: 360-385-9171

Subject to the terms and conditions contained in this Technical Services Agreement, STI (STI), hereby agrees to provide Technical Services to the Purchaser and Purchaser hereby agrees to obtain Technical Services from STI with respect to the hardware and / or software (hereinafter generally referred to as "Equipment," except where otherwise specifically identified), described on the Technical Services Schedule (hereinafter "Schedule") issued under this agreement, signed by Purchaser and accepted by STI. The Schedule shall be considered an integral part of this Agreement and thereafter is encompassed by the term "Agreement".

TERMS AND CONDITIONS

<p>1. TERMS OF AGREEMENT:</p> <p>1.1 This agreement shall be effective from the date ("Effective Date") on which it is accepted by STI and shall continue in full force until the expiration date of 8-31-2012 unless terminated earlier by either party. The Initial Term of this Agreement shall be one (1) year from the stated Effective Date. Term shall be extended for successive one (1) year periods unless terminated in writing by either party 30 days prior to the renewal date of July 1st or unless earlier terminated under Section 10 of the agreement.</p>
<p>2. BILLING / CHARGES:</p> <p>2.1 Purchaser will be invoiced for and agree to pay all charges set forth in the Agreement in addition any applicable taxes. If Purchaser fails to pay any invoice for a period of thirty (30) days after the scheduled due date of the invoice, Purchaser agrees to pay STI or other such entity STI may designate, on demand as late payment charge, interest on such overdue amount from the due dates thereof to the date of payment thereof, at a rate equal 18 percent per annum.</p> <p>2.2 Payment will be due upon receipt of the invoice.</p> <p>2.3 Charges shall begin on Effective Date of the Agreement and shall be invoiced either; monthly on the fifteenth of each month hereafter for monthly charges due on the first of each succeeding month; or annually on the Effective Date and anniversary of the Effective Date for each year thereafter.</p> <p>2.4 STI reserves the right to adjust the monthly service charge as from the expiration date of the Initial Term or any extension thereof, to reflect configuration of service cost changes. Such adjustment will be notified in writing forty-five (45) days in advance of the expiration date and will be invoiced accordingly thereafter.</p> <p>2.5 STI reserves the right to bill back to the Purchaser for any work that may be required as result of equipment alterations or additions (see section 4.1).</p>
<p>3. MATERIALS / SUPPLIES:</p> <p>3.1 Any Supply Products (ribbons, paper, magnetic tapes or similar materials) which Purchaser may order through STI for use in conjunction with the Equipment are sold as is, with no express or implied warranties of merchantability, fitness or a particular purpose.</p>

4. EQUIPMENT ALTERATIONS AND ADDITIONS:

4.1 Alterations in or attachments to STI Equipment may be made only with prior written approval of STI, which approval will not be unreasonably withheld. If after such written approval has been obtained the alterations or attachments interfere with the normal and satisfactory operation or Technical Service of any of the Equipment in such a manner as to increase the Technical Services cost, Purchaser will, upon notice from STI, promptly remove the alteration of attachment and restore the unit to its former condition or STI may terminate this Agreement.

5. SERVICE:

5.1 STI agrees, commencing with the Effective Date of this Agreement, in consideration of the charges payable from the Effective Date, to provide Technical Services for the specific location described herein, during the Initial Term of the Agreement and any extension thereof, to keep the Equipment in good order and repair, provide all labor and spare parts for that purpose, replace all parts becoming defective through normal wear and otherwise keep the Equipment in proper condition for use by Purchaser. Excluded from this Agreement are:

5.1.1 Labor and material costs of Equipment additions, changes, relocation's, removal or specification or engineering changes requested by Purchaser, or the provision of operating supplies and other similar accessories.

5.1.2 Repair or Technical Services or increase in normal service time resulting from Purchaser's failure to provide a suitable Equipment environment.

5.1.3 Fire, neglect, social insurrection, theft, vandalism, Acts of God (i.e., floods, lightning storms, etc.) or any other casualty, act or event occurring external to the Equipment, other than such as may have been caused by STI which causes either directly or indirectly a failure or malfunction of the Equipment or otherwise adversely affects the performance of the Equipment. Such excluded repairs will be billed at the STI hourly rate then in effect.

5.2 Purchaser shall indicate in this Agreement the Technical Services option to be provided, as listed and described below:

5.3 **Hardware / Software Technical Services:** Dispatch of STI personnel to Purchaser premises for Technical Services and repair.

5.3.1 If Purchaser selects this option, then with respect to a Major Malfunction herein defined as the failure of a console or fifty (50%) percent of incoming or outgoing telephone service or fifty (50%) percent of station-to-station service within Purchaser's system, STI will use its best efforts to respond to Purchaser's request for service with two (2) hours, but in no event more than four (4) hours, from the time STI first receives Purchaser's request for service, such a response to time will be calculated only during the hours of coverage selected by Purchaser as defined below, which coverage shall exclude legal holidays. With respect to a Minor Malfunction, STI will respond to Purchaser's premises between the hours of 8:00 am and 5:00 PM Monday through Friday, excluding holidays, within forty-eight (48) hours from the time STI first receives Purchaser's request for service. STI will complete hardware and software remedial service as soon as reasonably practical within the above-described time frame. Any service request outside of the regular hours of coverage selected by Purchaser for service for Major Malfunctions, or outside the coverage specified above for service for Minor Malfunctions, will be billed to Purchaser at the prevailing overtime hourly rate, within a minimum of two (2) hours service charge, at the STI rate then in effect.

5.4 **Complete: Twenty-four (24) hours per day, seven (7) days per week:**

5.4.1 Purchaser will provide adequate storage space for spare parts and adequate working space, including heat, light, ventilation, electric current and outlets for the use of STI Technical Services personnel. These facilities will be within a reasonable distance from the Equipment to be serviced and will be provided at no cost to STI.

5.4.2 STI responsibility with respect to Technical Services will be limited to the Purchaser's side of point of service connection between the Equipment and equipment operated by the local telephone utility.

5.4.3 Purchaser shall allow employees of STI free access to premises and facilities where the Equipment to be maintained at all hours consistent with the requirements of this Agreement.

5.4.4 Any Technical Services or service work performed on the Equipment by any party other than STI during the term of the Agreement, without the written consent of STI, shall cause this Technical Services Agreement to become null and void.

6. JUSTIFIABLE DELAYS:

6.1 The timeliness of performance by STI Technical Services or the performance of any other obligations of STI under this Agreement is in every case subject to delays caused by an act of God, war, riot, fire, flood, lightning, explosion, accident, sabotage, inability to obtain fuel or power, governmental laws, regulations or order, acts or inaction of Purchaser, labor trouble, strike, lockout, or injunction (whether or not such labor event is within the reasonable control of STI), or any other cause beyond the reasonable control of STI.

6.2 In the event of said delay, the period of time for performance of service affected by said delay will be extended to cover such periods of delay.

7. NOTICES:

7.1 Any notice required by this Agreement shall be transmitted to the parties in writing by prepaid, first class mail at the addresses set forth in this document or at such other address as either party may hereafter specify by written notice given in accordance with this Section.

8. ASSIGNMENT:

8.1 STI may assign, subcontract, transfer or otherwise dispose of, in whole or in part, any of its interests, rights or obligations under this Agreement including, with agreement by Jefferson County (Information Services Department), the STI obligation to provide Technical Services or other service work.

8.2 Any subcontractor performing Technical Services or other services hereunder will be subject to the same terms and conditions as are set forth herein.

8.3 Purchaser shall not assign or subcontract any part or all of its interests hereunder except upon prior written consent of STI, and any attempted assignment without STI prior written consent shall be null and void, which content shall not be unreasonably withheld or delayed.

9. LIMITATION OF LIABILITY AND EXCLUSIVE REMEDIES:

- 9.1 This is a Technical Services agreement. The STI obligations under this Agreement in lieu of all warranties expressed or implied by operation of law or otherwise.
- 9.2 STI disclaims any implied warranty of merchantability or fitness for a particular purpose for the services rendered hereunder.
- 9.3 If STI fails after repeated attempts to perform any of its obligations set forth in this Agreement, the STI entire liability and Purchaser's sole and exclusive remedy for claims related to or arising out of this Agreement for any cause and regardless of the form of action, whether in contract or in tort including negligence and strict liability shall be Purchaser's actual direct damages such as would be provable in a court of law but not to exceed the annual charge paid to STI for the specific unit of Equipment that caused the damage of which is the subject matter of or is directly related to the cause of action.
- 9.4 The foregoing limitation of liability will not apply to claims by Purchaser for personal injury or damage to real property or tangible personal property caused by STI negligence. In such instances, STI shall be liable to the extent of Purchaser's proven direct damages.
- 9.5 In no event shall STI be liable for:
 - 9.5.1 Incidental, indirect, special or consequential damages or for lost profits, savings or revenue of any kind whether or not STI has been advised of the possibility of such damages.
 - 9.5.2 Damages caused by Purchaser's failure to perform its obligations under this Agreement.
 - 9.5.3 Actions, claims or demands against Purchaser by any other party.
 - 9.5.4 Damages, actions, claims or financial harm to the Purchaser resulting from any breach of security or fraud, whether as a result of equipment performance or failure on the part of STI to foresee a potential exposure to security breakdown.
- 9.6 It is the responsibility of Purchaser to ensure that all of its files are adequately duplicated and documented. STI will not be responsible for Purchaser's failure to do so, nor for the cost of reconstructing data stored on disk files, tapes, memories, etc. lost for any cause whatsoever.

10. GENERAL:

- 10.1 If Purchaser, or STI, with regard to this Agreement fails to observe, keep or perform any provision of this Agreement, STI, or Purchaser upon fifteen (15) days written notice may terminate this Agreement at its option. This Agreement shall also be subject to termination if Purchaser files a petition in bankruptcy, is adjudicated in a bankruptcy, is subject to a court-appointed trustee or receiver; is in reorganization; or is otherwise insolvent.
- 10.2 No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions reorganization; or is otherwise insolvent.
- 10.3 Any terms and conditions of a purchase order or other instrument issued by Purchaser in connection with this Agreement will not be binding on STI or its subcontractor and will not apply to this Agreement.
- 10.4 All remedies under this and any associated agreement are cumulative and may be exercised concurrently or separately. Purchaser shall pay to STI, and STI shall pay to Purchaser, all costs and expenses, including attorney's fees, incurred by it in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions or provisions hereof.
- 10.5 Any provision of this Agreement that is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or un-enforceability, without invalidating the remaining provisions; and such prohibition or unenforceability in one jurisdiction shall not invalidate or render unenforceable such provision.
- 10.6 The laws of the State of Washington will govern this Agreement.

See attached: Technical Services Schedule

Initials: STI Representative:

Kfw

Purchaser Representative:

PURCHASER HEREBY ACKNOWLEDGES THAT THEY HAVE READ ALL OF THE PROVISIONS OF THE AGREEMENT, AND ANY ATTACHMENTS HERETO. THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE TERMS AND CONDITIONS AGREED UPON BY THE PARTIES, WHICH SUPERSEDES ALL PROPOSALS OR PRIOR AGREEMENTS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER HEREIN. THIS AGREEMENT MAY NOT BE MODIFIED EXCEPT IN WRITING SIGNED BY THE PRESIDENT OF STI AND AN AUTHORIZED REPRESENTATIVE OF PURCHASER.



Attachment: TECHNICAL SERVICES SCHEDULE

Agreement No:							
0000JCS11 Jefferson County Courthouse							
General Description of Hardware / Software, applicable to this Agreement:							
Millennium telephone system, all telephone sets, system cards and associated software for the telephone system. Call Accounting is being taken care of directly with the manufacturer per request of the County.							
<i>Technical Services Coverage Options</i>							
Hardware Technical Services (On-Site):							
<ul style="list-style-type: none"> • Labor is covered 24 hours a day, 7 days per week, excludes holidays 	\$1,164.00 per mo. + tax \$104.76 = total \$1,268.76						
Payment Options:							
<i>Annual</i>							
<ul style="list-style-type: none"> • ANNUAL PAYMENT REFLECTS 10% DISCOUNT • Payment for option selected must accompany contract, and received no later than: 9-30-2011 	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"></td> <td style="text-align: right;">\$12,571.20</td> </tr> <tr> <td style="text-align: right;">9.0% Sales Tax</td> <td style="text-align: right; border-top: 1px solid black;">\$1,131.41</td> </tr> <tr> <td style="text-align: right;">Total</td> <td style="text-align: right;">\$13,702.61</td> </tr> </table>		\$12,571.20	9.0% Sales Tax	\$1,131.41	Total	\$13,702.61
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9.0% Sales Tax	\$1,131.41						
Total	\$13,702.61						
<i>Description of Supplemental Move, Add, and Change Services (MAC)</i>							
Labor rates for Technical Service:							
<ul style="list-style-type: none"> • \$180.00 Service Call • \$ 105.00 Per hour - 8:00 AM - 5:00 PM Monday - Friday (excluding holidays). • \$ 157.50 Per hour - 5:00 PM. - 8:00 AM Monday - Friday, all day Saturday (excluding holidays). • \$ 210.00 Per hour - Sundays and holidays. • Technical Services service for the equipment described in this contract or in any update attached hereto shall be provided in accordance with the options selected above and shall be governed by the terms and conditions of the referenced Technical Services Agreement. 							
Authorized Purchaser, Printed Name / Title:	Date:						
Signature:	STI, Authorized Representative Signature:						

Approved as to form only:

0000JCC11

7/29/2011
 Jefferson Co. Prosecutor's Office