

PENDING APPROVAL

OKLAHOMA COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM REQUEST SHEET

FOR THE 5 DAY OF May, 2010 AGENDA

(THE DEADLINE IS ONE WEEK PRIOR TO THE DATE THE AGENDA IS TO BE POSTED)

DEPARTMENT: MIS

REQUESTED BY: Mike Harman

REQUISITION NO.: 11006448

REQUISITION SHEET ATTACHED: Yes

NAME OF FUNDS: MIS MAINTENANCE & OPERATIONS FUND NUMBERS: 1001/2700/54030

PLEASE INITIAL IF PRIVACY/PROTECTED INFORMATION EXISTS: N/A

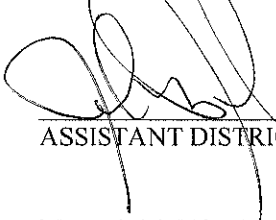
NUMBER OF ORIGINAL DOCUMENTS TO BE RETURNED TO YOUR DEPARTMENT: 3

AGENDA ITEM READS AS FOLLOWS: Discussion and possible action to approve the renewal of the FY-2011 Interact Public Safety contract, which was formerly Bio-Key. This contract is for the support of the Sheriff's MobileCop and NCIC. The requisition number is 11006448 and the costs not to exceed \$25962.12 contingent upon funds available. Requested by Mike Harman, Director of Information Technologies.

APPROVED BY DA
(If Applicable)

APPROVED BY ENGINEER
(If Applicable)

APPROVED BY PURCHASING
(If Applicable)

 5/3/2010
ASSISTANT DISTRICT ATTORNEY

COUNTY ENGINEER


PURCHASING AGENT

Please initial if privacy/security protected information exist

DISTRICT ATTORNEY – PRIVACY/SECURITY PROTECTED INFORMATION: N/A

COUNTY CLERK – PRIVACY/PROTECTED INFORMATION: N/A

(NOTE: THE CHAIRMAN/CHIEF DEPUTY MUST APPROVE ALL EMERGENCY REQUESTS FOR ANY ITEM SUBMITTED AFTER THE DEADLINE)

DATE OF REQUEST: _____ APPROVED BY: _____
CHAIRMAN

REQUEST FOR DISTRICT ATTORNEY LEGAL SERVICES

THIS FORM IS TO BE USED TO REQUEST ADVICE AND/OR REPRESENTATION FROM THE DISTRICT ATTORNEY'S OFFICE REGARDING THE COUNTY OF OKLAHOMA, COUNTY OFFICIALS AND EMPLOYEES AS REQUIRED BY SECTIONS 215.4, 215.5, 215.25 AND 215.26 OF TITLE 19 OF THE OKLAHOMA STATUTES.

IF ADVICE IS SOUGHT, THE REQUEST MUST BE SIGNED BY AN ELECTED COUNTY OFFICER. THIS FORM MUST BE FILLED OUT AND SUBMITTED TO THE CIVIL DIVISION OF THE OKLAHOMA COUNTY DISTRICT ATTORNEY'S OFFICE IN A TIMELY MANNER. ALL RESPONSES TO REQUESTS FOR ADVICE WILL BE IN WRITING.

IF THE REQUEST IS FOR LEGAL REPRESENTATION UNDER 19 O. S. SECTION 215.25, THE REQUEST MUST BE SUBMITTED IN WRITING EARLY ENOUGH TO PERMIT THE DISTRICT ATTORNEY'S OFFICE ADEQUATE TIME TO COMPLETE A THOROUGH "GOOD-FAITH-AND-COURSE-OF-EMPLOYMENT" INVESTIGATION AS CONTEMPLATED BY 19 O.S. SECTION 215.26.

DATE OF REQUEST: 4/27/2010
COUNTY DEPARTMENT MAKING REQUEST: MIS

STATE WITH SPECIFICITY, WHAT THE REQUEST IS AND WHY THE ASSISTANCE OF THE DISTRICT ATTORNEY'S OFFICE IS NEEDED: **Please review this renewal of the Interact Public Safety contract, formerly Bio-Key.**

ATTACH ADDITIONAL DOCUMENTS AS APPROPRIATE. (NOTE: Advice, reviews and approvals as to "form and legality" are based on the documentation and information provided to the District Attorney's Office. Please provide all relevant information when requesting an opinion or review from the District Attorney's Office).

Mike J 2/ow

COUNTY OFFICER

.....
DATE RECEIVED BY DISTRICT ATTORNEY: 4/28/10

REPLY BY DISTRICT ATTORNEY: Reviewed

RECEIVED
APR 28 2010
CIVIL DIVISION
DISTRICT ATTORNEY

DAVID PRATER
DISTRICT ATTORNEY
By: [Signature]

PENDING APPROVAL

Oracle Applications - PROD

File Edit View Folder Tools Window Help

ORACLE

REQUISITIONS Oracle County - New

Number: 11006448 Type: Purchase Req Preparer: O'Neal, Rhonda
Description: INTERACT PUBLIC Status: Incomplete Total: USD 25,962.12

Source Details Details Currency

Num	Category	Description	UOM	Quantity	Price	Need-By
1	SERVICE.PROFE	RENEWAL OF THE MO	Each	25962.12	1	

Destination Type: Expense Source: Supplier
Requester: O'Neal, Rhonda Supplier: COLOSSUS INC DBA INTEF
Organization: MIS Site: REMIT 1
Location: MIS - RM 321 Contact:
Subinventory: Phone:

Cancel Distributions Approve...

Warning: A pop-up window is visible in the bottom left corner.

start Oracle Applications

InterAct Public Safety Systems

SUPPORT AND MAINTENANCE AGREEMENT

This agreement ("Agreement") is made by and between Colossus, Incorporated d/b/a InterAct Public Safety Systems ("InterAct") and **OKLAHOMA COUNTY, OK MIS DEPARTMENT**, whose principal place of business is located at 320 Robert S. Kerr, Suite 321, Oklahoma City, OK 73102, ("Customer") and is dated as of the Effective Date, as defined herein.

Recitals.

A. Customer has licensed and/or purchased the Product(s) (as defined below) from InterAct under separate agreement (the "Purchase Agreement") and desires to obtain support and maintenance services for such Products.

B. InterAct desires to provide such support and maintenance services for such Product(s) upon the terms and conditions set forth in this agreement.

Therefore, for good and valuable consideration InterAct and Customer agree as follows:

Section 1. Definitions.

1.1 "Error" means any failure of a Product(s) to conform in any material respects to its published and/or provided documentation.

1.2 "Product(s)" means the InterAct Product(s) listed on Exhibit A. The Product(s) includes any and all Enhancement Releases, Maintenance Releases or Patches delivered to Customer under this Agreement or the Purchase Agreement. Items not supplied by InterAct do not qualify as Products hereunder.

1.3 "Enhancement Release" means a new release of a Product with new features and/or functionality or improved performance for which a separate new version upgrade fee is not charged.

1.4 "Maintenance Release" means a new release of a Product that incorporates Patches and/or other maintenance changes.

1.5 "Patch" means an interim piece of code released to supplement a Product that typically fixes High Priority Errors between Maintenance Releases.

1.6 "Workaround" typically means a set of procedures that a Customer follows to circumvent or mitigate the impact of an Error. The Error still exists. A Workaround may be provided at InterAct's discretion in lieu of a Patch for a specific Error.

1.7 "Other Defined Terms". Except as expressly defined in this Agreement, capitalized terms shall have the meaning ascribed to them in the Purchase Agreement.

Section 2. Scope of Support And Maintenance Services.

2.1 Services Provided. During the term of this Agreement, for so long as Customer subscribes to the applicable InterAct Product maintenance program and timely pays therefore, and for so long as InterAct makes support and maintenance services for the Product(s) generally available to its customers, InterAct shall support the Product(s) by providing the services described in the following paragraphs of this Section 2. Support and maintenance services are subject to change at InterAct's option provided that support and maintenance terms are so modified for all similarly situated Product maintenance subscribers. InterAct has no obligation to correct or support Errors arising from Customer's misuse, improper use, alteration (other than by a InterAct representative), or damage to the Product(s) including, without limitation, by electrical power failures or surges, or Customer's combining or merging the Product(s) with any hardware or software not identified as compatible by InterAct, or any other Errors not resulting from normal wear and tear.

2.2 Technical Support. InterAct will provide telephone technical support regarding use of the Product(s) and response to Errors to Customer's Support Contacts designated under Section 2.7.2. InterAct technical support representatives will be available by telephone Monday through Friday from 8:00 a.m. to 6:00 p.m. ET. During off-hours, in connection with High Priority situations as described in Section 2.3 below, a InterAct technical support representative will endeavor to return Customer's call within four (4) hours.

2.3 Response Priorities. InterAct will assign all Customer requests for Error support one of two response priorities that will dictate the timing of the response as follows:

High Priority. A major feature/function of the Product(s) is not working or the system integrity is at risk. InterAct will attempt to provide a Workaround or Patch within three (3) business days of Customer's report of the problem. If the Workaround or Patch cannot be provided within the three (3) business days, InterAct will dedicate resources to the problem resolution and will inform Customer on a periodic basis of the resolution status.

Low Priority. The Customer has a problem that is not seriously impacting the Customer's workflow, i.e., any problem that does not meet the above standard for "High Priority". InterAct will assess, in good faith, the timing for the provision of a Workaround or Patch for such problem, whether in a future Maintenance Release, Enhancement Release or earlier. When such determination is made, InterAct will notify Customer of the results of the status evaluation, which could include delaying repair of the error until a future planned release.

2.4 Subsequent Release(s). During the term of this Agreement, InterAct will send Enhancement Releases and Maintenance Releases to Customer when made generally commercially available by InterAct to its customers. Each Enhancement Release, Maintenance Release and Patch delivered by InterAct under this Agreement is subject to the provisions of the Purchase Agreement and shall be automatically deemed to be covered by all applicable Product license terms.

2.5 Preventative Maintenance. InterAct may, at its sole option, schedule technical service telephone calls or visits for the purpose of Product inspection or preventative maintenance.

2.6 Customer Notification. InterAct's obligations to provide the assistance specified in this Section 2 are conditioned on Customer's prompt notification to InterAct of the problem that provides InterAct with information sufficient to identify the problem. Such information may include, but not be limited to, error diagnostic messages, diagnostic memory dumps, operator console logs, data file dumps, application program listings, and a written explanation of the problem.

2.7 Customer Cooperation and Support Contacts.

2.7.1 Customer Cooperation. Customer acknowledges that InterAct may not be able to resolve an Error if Customer does not cooperate with and assist InterAct in resolving the Error.

2.7.2 Support Contacts. InterAct shall only be required to receive communication from a Customer designated Support contact. Customer will designate three (3) authorized Support Contacts and agrees that each Support Contact will be knowledgeable in all aspects of the Customer's operating environment in which the Product(s) are being used. Customer will provide all requested information about each of its Support Contacts by completing an Authorized Support Contacts form, but may change designation of the contacts in writing.

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Section 3. Support And Maintenance Fees.

3.1 Required Coverage. All Product(s) to be covered by this Agreement on the effective date of this Agreement must be the then current Product(s) furnished by InterAct. Thereafter, Customer must remain within at least one new Release of the Product.

3.2 Annual Support and Maintenance Fee. Customer shall pay an annual support and maintenance Fee at InterAct's rate in effect at the beginning of this Agreement. The annual support and maintenance Fee in effect as of the effective date of this Agreement is set forth in Exhibit A hereto. Payment shall be due within thirty (30) days of receipt of invoice by Customer. If Customer fails to pay such invoice within thirty (30) days, or the support and maintenance agreement lapses for any other reason, a reinstatement fee may be charged in addition to the annual support and maintenance fee. If this Agreement terminates or Customer discontinues maintenance for any reason, and then subsequently desires (with InterAct's permission) to purchase or reactivate maintenance in the future, such repurchase or reactivation will be at the prevailing charges at the time of repurchase or reactivation. However, in the event that the Product has been updated or replaced by InterAct in the interim period, InterAct will have to install the new/updated Product for which the Customer could incur an installation charge and a license charge.

3.3 Additional Support and Maintenance Fees. If after the effective date of this Agreement, Customer either purchases additional Products or Product licenses from InterAct, Customer shall pay the applicable additional support and maintenance fee, pro-rated in order to reflect how much is then remaining in the current one year term.

Section 4. Disclaimer Of Warranties. THIS IS A SERVICES AGREEMENT. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

Section 5. Term and Termination.

5.1 Term. The effective date of this Agreement shall be the date it is executed by Customer which must occur no later than the date of expiration of the applicable warranty period, if any, for the Product(s). If Customer does not execute the Agreement before such date, InterAct shall have the right to inspect the Product(s) at Customer's expense to insure it is in good operating order, or impose other

reasonable conditions, before re-offering this Agreement. The term of this Agreement shall be one year. No Agreement will become effective until countersigned by InterAct.

5.2 Renewal. This Agreement shall renew pending available funds for successive one-year terms commencing on the anniversary date of the effective date, unless either party provides the other with thirty (30) days prior written notice of its decision to not renew this Agreement. All annual support and maintenance fees are subject to change at InterAct's option.

5.3 Termination. This Agreement will terminate: 1) upon the expiration of the then current term of this Agreement and timely receipt by one party of the other's decision to not renew this Agreement; 2) at InterAct's election, upon failure of Customer to pay support and maintenance fees when due; or 3) upon thirty (30) days prior written notice if either party has materially breached the provisions of this Agreement and has not cured such breach within such notice period. Termination of this Agreement for any reason shall not relieve Customer from any remaining obligations under this Agreement, including but not limited to, the payment of any amounts due nor shall it affect any additional remedies that InterAct may have at law or in equity. Upon termination of this Agreement, InterAct may, at its option, declare the entire amount of the unpaid balance due under this Agreement to be immediately due and payable.

Section 6. Miscellaneous.

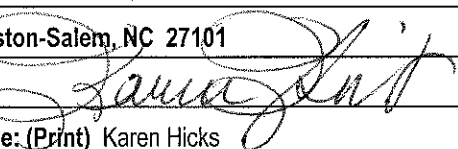
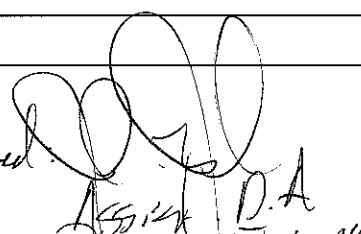
6.1 Miscellaneous Provisions. Dispute resolution and other provisions are contained in Schedule 1 to this Agreement.

6.2 Schedules And Exhibits. Each of the exhibits and schedules listed below shall be incorporated into and shall for all purposes be deemed a part of this Agreement:

- Exhibit A - Support and Maintenance Fee Schedule
- Schedule 1 - Dispute Resolution and Other Provisions

Section 7. Entire Agreement; Amendments. This Agreement, along with its Exhibits and Schedules, constitutes and embodies the entire Agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous written, electronic or oral communications, agreements or understandings between the parties with respect thereto. This Agreement may not be modified or amended except by a written instrument executed by the parties.

IN WITNESS WHEREOF, the parties hereto each acting with proper authority have executed this Agreement as indicated below.

COLOSSUS, INCORPORATED D/B/A INTERACT PUBLIC SAFETY SYSTEMS	CUSTOMER: OKLAHOMA COUNTY, OK MIS DEPARTMENT
102 W. 3rd Street, Suite 750	320 Robert S. Kerr, Suite 321
Winston-Salem, NC 27101	Oklahoma City, OK 73102
By: 	By: 
Name: (Print) Karen Hicks	Name: (Print)
Title: Director, Contracts & Administration	Title:
Date: 04/20/2010	Date:

PENDING APPROVAL

SUPPORT AND MAINTENANCE AGREEMENT

EXHIBIT A SUPPORT AND MAINTENANCE FEE SCHEDULE

Coverage Period: **July 1, 2010 – June 30, 2011**

PRODUCT	QUANTITY	UNIT LIST PRICE AT TIME OF PRODUCT PURCHASE	MAINTENANCE UNIT PRICE	MAINTENANCE EXTENDED PRICE
InterActConnectionManager Software (formerly InfoServer™) [100]	1	\$87,000.00	\$15,660.00	\$15,660.00
InterActMobile State/NCIC Interface (formerly State/NCIC Interface) Software [40]	1	\$11,300.00	\$2,034.00	\$2,034.00
InterActMobileCop Software (formerly MobileCop®)	57	\$795.00	\$143.16	\$8,160.12
InterActMobileCop Software (formerly MobileCop) LAN [1]	1	\$600.00	\$108.00	\$ 108.00
<i>To be billed monthly, in arrears, in increments of \$2,163.51</i>				
TOTAL				\$25,962.12

Customer shall pay the Support and Maintenance Fees to InterAct within thirty (30) days of execution of this Agreement.

Support and Maintenance Fees are subject to change annually.

The above fees do not include any applicable taxes levied or imposed now or hereafter by any governmental authority on the services to be provided hereunder or any component thereof (such as the Releases), which taxes shall be paid by Customer.

SUPPORT AND MAINTENANCE AGREEMENT

SCHEDULE 1

DISPUTE RESOLUTION AND OTHER PROVISIONS

1. Dispute Resolution.

1.1 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of Oklahoma, without regard to conflicts of laws principles.

1.2 Mediation. In the event of any controversy or claim arising out of or relating to this Agreement or the breach or interpretation thereof, the parties shall, upon five days notice from either one to the other, submit themselves and the subject-matter of the dispute to mediation before an independent mediator to be appointed by the American Arbitration Association. Costs of mediation shall be borne equally between the parties.

1.3 Arbitration. In the event that the parties remain in dispute following the mediation, the controversy or claim shall be determined by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association by a single, disinterested arbitrator appointed in accordance with such Rules. The determination of the arbitrator shall be final, conclusive and binding. Judgment upon the award rendered may be entered in any court of any state or country having jurisdiction.

1.4 Conduct. Each party shall ensure that any mediation and arbitration are conducted as speedily as is reasonably possible, and that all and any information disclosed during or in connection with the arbitration is treated by each party with the strictest confidence.

1.5 Interim and Permanent Relief. Upon the application of either party to this Agreement, and whether or not an arbitration or mediation provision has yet been initiated, all courts having jurisdiction over one or more of the parties are authorized to: (i) issue and enforce in any lawful manner such temporary restraining orders, preliminary injunctions and other interim measures of relief as may be necessary to prevent harm to a party's interests or as otherwise may be appropriate pending the conclusion of arbitration proceedings pursuant to this Agreement; and (ii) enter and enforce in any lawful manner such judgments for permanent equitable relief as may be necessary to prevent harm to a party's interests or as otherwise may be appropriate following the issuance of arbitral awards pursuant to this Agreement.

1.6 Venue. Any mediation or arbitration conducted under or in connection with this Agreement shall take place in Oklahoma City, Oklahoma at a time and location to be determined by the mediator or arbitrator, as the case may be.

1.7 Legal Expenses. If any proceeding is brought by either party to enforce or interpret any term or provision of this Agreement, the substantially prevailing party in such proceeding shall be entitled to recover, in addition to all other relief arising out of this Agreement, such party's reasonable attorneys' and other experts' (including without limitation accountants) fees and expenses.

2. Excused Performance; Force Majeure. If the performance of this Agreement is adversely restricted by reason of any circumstances beyond the reasonable control and without the fault or negligence of the party affected, then the party affected, upon giving prompt written notice to the other party, shall be excused from such performance on a day-to-day basis to the extent of such restriction; provided, however, that the party so affected shall use all commercially reasonable efforts to avoid or remove such causes of non-performance and both parties shall proceed whenever such causes are removed or cease.

3. Exclusion of Certain Claims. IN NO EVENT SHALL INTERACT BE LIABLE (WHETHER IN TORT OR CONTRACT, UNDER STATUTE OR OTHERWISE) FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION AND THE LIKE, ARISING OUT OF ITS PERFORMANCE OR

NONPERFORMANCE OF THIS AGREEMENT OR THE USE, INABILITY TO USE OR RESULTS OF USE OF THE PRODUCTS, EVEN IF INTERACT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

4. Limitation of Liability. InterAct's liability (whether in tort or contract, under statute or otherwise) with regard to this Agreement or any Product(s) or other items furnished in connection with this Agreement shall in no event exceed the Support And Maintenance Fees paid by Customer to InterAct under this Agreement. To the extent any limitation of liability contained herein is construed by a court of jurisdiction to be limitation of liability in violation of Oklahoma Law, such limitation of liability shall be void.

5. DISCLAIMER OF WARRANTIES. THIS IS A SERVICES AGREEMENT. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

6. Equitable Relief. Each of Customer and InterAct acknowledges that damages will be an inadequate remedy if the other violates the terms of this Agreement, or otherwise fails to perform its obligations hereunder. Accordingly, subject to Section 1 of this Schedule, each of them shall have the right, in addition to any other rights each of them may have, to obtain in any court of competent jurisdiction, temporary, preliminary and permanent injunctive relief to restrain any breach, threatened breach, or otherwise to specifically enforce any of the obligations in this Agreement.

7. Waiver. No waiver of or with respect to any provision of this Agreement, nor consent by a party to the breach of or departure from any provision of this Agreement, shall in any event be binding on or effective against such party unless it be in writing and signed by such party, and then such waiver shall be effective only in the specific instance and for the purpose for which given.

8. Captions and Headings. The captions and headings are inserted in this Agreement for convenience only, and shall not be deemed to limit or describe the scope or intent of any provision of this Agreement.

9. Severability; Invalidity. If any provision of this Agreement is held to be invalid, such invalidity shall not render invalid the remainder of this Agreement or the remainder of which such invalid provision is a part. If any provision of this Agreement is so broad as to be held unenforceable, such provision shall be interpreted to be only so broad as is enforceable.

10. Assignment. Customer shall not assign any of its rights under this Agreement without the prior written consent of InterAct. This Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

11. Notices. Any notice or other communication under this Agreement given by either party to the other party shall be deemed to be properly given if given in writing and delivered (i) by facsimile transmission (receipt confirmed) or (ii) mailed (return receipt requested), properly addressed and stamped with the required postage, or (iii) sent by an overnight express courier, to the recipient at the address identified in its signature block to this Agreement or, if no such address is provided, as specified in writing by one party to the other. Either party may from time to time change its address by giving the other party notice of the change in accordance with this Section.