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2/22

**CONTRACT BETWEEN
COUNTY OF GLOUCESTER
AND
PROPHOENIX CORPORATION**

THIS CONTRACT is made effective the 2nd day of February, 2022, by and between the **COUNTY OF GLOUCESTER**, a body politic and corporate, with offices in Woodbury, New Jersey, hereinafter referred to as "**County**", and **PROPHOENIX CORPORATION**, with a mailing address of 502 Pleasant Valley Avenue, Suite 1, Moorestown, New Jersey 08057, hereinafter referred to as "**Vendor**".

RECITALS

WHEREAS, the County has a need to contract for the purchase of annual maintenance & support including but not limited to HERE Map Annual Subscription, (6) New Jersey Fire Code Books Updated, Phoenix Annual Maintenance and Support- CAD, RMS, Mobile, Fire RMS; WDA App Server Licensing; ComTekk Toner Interface; LINX Interface, Rapid SOS Portal Enhanced Interface; and Text2Dispatch Interface; and

WHEREAS, the supplies and services related to this contract is an expansion and ultimately the support and maintenance of proprietary hardware and software which is integrally related to existing computer systems in the County and is an exception to the Local Public Contracts Law and described and provided in N.J.S.A. 40A:11-5(1)(dd); and

WHEREAS, the contract has been awarded consistent with the fair and open provisions of the Gloucester County Administrative Code and with N.J.S.A. 19:44A-20.4 et seq., which exempt this contract from competition because vendor has certified that it has not previously made and will not make a disqualifying contribution during the term of the contract; and

WHEREAS, Vendor represents that it is qualified to perform said services and desires to perform pursuant to the terms and provisions of this Contract.

NOW, THEREFORE, in consideration of the mutual promises, agreements and other considerations made by and between the parties, the County and Vendor do hereby agree as follows:

TERMS OF AGREEMENT

1. **TERM.** The contract shall be for the period of one year, from January 1, 2022 to December 31, 2022.
2. **COMPENSATION.** Vendor shall be compensated in a total contract amount of \$242,840.12 as per Vendor's Invoice # 2022017, dated October 27, 2021.

Vendor shall be paid in accordance with this contract document upon receipt of an invoice and a properly executed voucher. After approval by County, the payment voucher shall be placed in line for prompt payment.

Each invoice shall contain an itemized, detailed description of all work performed during the billing period. Failure to provide sufficient specificity shall be cause for rejection of the invoice until the necessary details are provided.

It is also agreed and understood that the acceptance of the final payment by Vendor shall be considered a release in full of claims against the County arising out of, or by reason, the work done and materials furnished under this Contract.

3. DUTIES OF VENDOR. The specific duties of the Vendor shall be as set forth in Vendor's Invoice #2022017, dated October 27, 2021, attached hereto as Attachment A, which are incorporated in its entirety and made a part of this contract. Vendor agrees that it has or will comply with, and where applicable shall continue throughout the period of this contract to comply with, all of the requirements of any specifications, which may have been issued by the County of Gloucester in connection with the work to be performed.

4. FURTHER OBLIGATIONS OF THE PARTIES. During the performance of this Contract, the Vendor agrees as follows:

The Vendor or Subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, sex, veteran status or military service. Except with respect to affectional or sexual orientation and gender identity or expression, the vendor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, sex, veteran status or military service. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The Vendor or Subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, sex, veteran status or military service.

The Vendor or Subcontractor will send to each labor union, with which it has a collective

bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the Vendor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Vendor or Subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The Vendor or Subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

5. LICENSING AND PERMITTING. If the Vendor or any of its agents is required to maintain a license, or to maintain in force and effect any permits issued by any governmental or quasi-governmental entity in order to perform the services which are the subject of this Contract, then prior to the effective date of this Contract, and as a condition precedent to its taking effect, Vendor shall provide to County a copy of its current license and permits required to operate in the State of New Jersey, which license and permits shall be in good standing and shall not be subject to any current action to revoke or suspend, and shall remain so throughout the term of this Contract.

Vendor shall notify County immediately in the event of suspension, revocation or any change in status (or in the event of the initiation of any action to accomplish such suspension, revocation and/or change in status) of license or certification held by Vendor or its agents.

6. TERMINATION. This Contract may be terminated as follows:

A. If Vendor is required to be licensed in order to perform the services which are the subject of this Contract, then this Contract may be terminated by County in the event that the appropriate governmental entity with jurisdiction has instituted an action to have the Vendor's license suspended, or in the event that such entity has revoked or suspended said license. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

B. If, through any cause, the Vendor or subcontractor, where applicable, shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Vendor shall violate any of the covenants, agreements, or stipulations of this Contract, the County shall thereupon have the right to terminate this Contract by giving written notice to the Vendor of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Vendor under this Contract, shall be forthwith delivered to the County.

C. The County may terminate this Contract for public convenience at any time by a notice in writing from the County to the Vendor. If the Contract is terminated by the County as provided herein, the Vendor will be paid for the services rendered to the time of termination.

D. Notwithstanding the above, the Vendor or subcontractor, where applicable, shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Vendor.

E. Termination shall not operate to affect the validity of the indemnification provisions of this Contract, nor to prevent the County from pursuing any other relief or damages to which it may be entitled, either at law or in equity.

7. **NO ASSIGNMENT OR SUBCONTRACT.** This Contract may not be assigned nor subcontracted by the Vendor, except as otherwise agreed in writing by both parties. Any attempted assignment or subcontract without such written consent shall be void with respect to the County and no obligation on the County's part to the assignee shall arise, unless the County shall elect to accept and to consent to such assignment or subcontract.

8. **INDEMNIFICATION.** The Vendor or subcontractor, where applicable, shall be responsible for, shall keep, save and hold the County of Gloucester harmless from, and shall indemnify and shall defend the County of Gloucester against any claim, loss, liability, expense (specifically including but not limited to costs, counsel fees and/or experts' fees), or damage resulting from all personal injury, including death, to employees or recipients of the Vendor's services or to any other persons, or from any damage to any property of third parties sustained in connection with this contract which results from any negligent acts or omissions of any of its officers, directors, employees, agents, servants or independent contractors. The Vendor's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

9. **POLITICAL CONTRIBUTION DISCLOSURE AND PROHIBITION.** This contract has been awarded to Vendor based on the merits and abilities of Vendor to provide the goods or services described in this Contract. This contract was awarded through a non-competitive process pursuant to N.J.S.A. 19:44A-20.4 et seq. The signer of this Contract does hereby certify that Vendor, its subsidiaries, assigns or principals controlling in excess of 10% of the Vendor will not make a reportable contribution during the term of the contract to any political party committee in Gloucester County if a member of that political party is serving in an elective public office of Gloucester County when the contract is awarded, or to any candidate committee of any person serving in an elective public office of Gloucester County when the contract is awarded.

10. **INSURANCE.** Vendor shall, if applicable to the services to be provided, maintain general liability, automobile liability, business operations, builder's insurance, and Workers' Compensation insurance in amounts, for the coverages, and with carriers deemed satisfactory by County, and which shall be in compliance with any applicable requirements of the State of New Jersey. Vendor shall, simultaneously with the execution of this Contract, deliver certifications of said insurance to County.

If Vendor is a member of a profession that is subject to suit for professional malpractice,

then Vendor shall maintain and continue in full force and effect an insurance policy for professional liability/malpractice with limits of liability acceptable to the County. Vendor shall, simultaneously with the execution of this Contract, and as a condition precedent to its taking effect, provide to County a copy of a certificate of insurance, verifying that said insurance is and will be in effect during the term of this Contract. The County shall review the certificate for sufficiency and compliance with this paragraph, and approval of said certificate and policy shall be necessary prior to this Contract taking effect. Vendor also hereby agrees to continue said policy in force and effect for the period of the applicable statute of limitations following the termination of this Contract and shall provide the County with copies of certificates of insurance as the certificates may be renewed during that period of time.

11. PREVENTION OF PERFORMANCE BY COUNTY. In the event that either party is prevented from performing this Contract by circumstances beyond its control, then any obligations owing such party to the other party shall be suspended without liability for the period during which the party is so prevented.

12. NON-WAIVER. The failure by either party to enforce any particular provision of this Contract, or to act upon a breach of this Contract, the other party shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

13. PARTIAL INVALIDITY. In the event that any provision of this Contract shall be or become invalid under any law or applicable regulation, such invalidity shall not affect the validity or enforceability of any other provision of this Contract.

14. CHANGES. This Contract may be modified by change orders, consistent with applicable laws, rules and regulations. The County, without invalidating this Contract, may order changes consisting of additions, deletions, and/or modifications, and the contract sum shall be adjusted accordingly. This Contract and the contract terms may be changed only by change order. The cost or credit to the County from change in this Contract shall be determined by mutual agreement before executing the change involved.

15. NOTICES. Notices required by this Contract shall be effective upon mailing of notice by regular and certified mail to the addresses set forth above, or by personal service, or if such notice cannot be delivered or personally served, then by any procedure for notice pursuant to the Rules of Court of the State of New Jersey.

16. COMPLIANCE WITH APPLICABLE LAW. Vendor shall at all times during the course of the effective period of this Contract comply with and be subject to all applicable laws, rules and regulations of the State of New Jersey and of any other entity having jurisdiction pertaining to the performance of Vendor's services.

17. INDEPENDENT CONTRACTOR STATUS. The parties acknowledge that Vendor is an independent contractor and is not an agent of the County.

18. CONFIDENTIALITY. Vendor agrees not to divulge or release any information,

reports, or recommendations developed or obtained in connection with the performance of this Contract, during the term of this Contract, except to authorized County personnel or upon prior approval of the County.

19. **BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.

20. GOVERNING LAW, JURISDICTION AND VENUE. This agreement and all questions relating to its validity, interpretation, performance or enforcement shall be governed by and construed in accordance with the laws of the State of New Jersey. The parties each irrevocably agree that any dispute arising under, relating to, or in connection with, directly or indirectly, this agreement or related to any matter which is the subject of or incidental to this agreement (whether or not such claim is based upon breach of contract or tort) shall be subject to the exclusive jurisdiction and venue of the state and/or federal courts located in Gloucester County, New Jersey or the United States District Court, District of New Jersey, Camden, New Jersey. This provision is intended to be a "mandatory" forum selection clause and governed by and interpreted consistent with New Jersey law and each waives any objection based on forum non conveniens.

21. CONTRACT PARTS. This contract shall consist of this document, Vendor's Invoice # 2022017, dated October 27, 2021. If there is a conflict between this Contract and Vendor's Invoice and Proposals, then this Contract shall control.

THIS CONTRACT is made effective the 2nd day of February, 2022.

IN WITNESS WHEREOF, the County has caused this instrument to be signed by its Director, attested by its Clerk, and its corporate seal affixed hereunto, pursuant to a Resolution of the said party of the first part passed for that purpose, and Contractor has caused this instrument to be signed by its properly authorized representative and its corporate seal affixed the day and year first above written.

ATTEST:

**LAURIE J. BURNS,
CLERK OF THE BOARD**

~~COUNTY OF GLOUCESTER~~

FRANK J. DIMARCO, DIRECTOR

ATTEST:

PROPHOENIX CORPORATION

BY: Sam Ramasamy
TITLE: President & CEO

ATTACHMENT A

ProPhoenix Corporation

302 Pleasant Valley Ave, Ste 1
 Moorestown, NJ 08057
 Phone # 609-953-6850
 Web: www.prophoenix.com

Invoice

Bill To
Gloucester County Emergency Services 1200 N Delsea Dr Clayton, NJ 08312 Attn: Director Thomas Bull Email: tbulls@co.glocester.nj.us

Date	Invoice #	Invoice Amount
10/27/2021	2022017	\$242,840.12
P.O. No.	Terms	Due Date
	Due date	1/31/2022

Item	Description	Qty	Rate	Amount
PNX-ASM	Phoenix Annual Maintenance and Support - CAD, RMS, Mobile, Fire RMS	1	208,442.66	208,442.66
ICC-2006 NJ GOOGLE-LIC-SW	New Jersey Fire Code - 6 books (Updated) HERE Map Annual Subscription	1	1,004.31	1,004.31
PNX-ASM	Phoenix Annual Maintenance and Support - WDA App Server Licensing	1	9,942.00	9,942.00
PNX-ASM	Phoenix Annual Maintenance and Support - ComTekk Toner Interface	1	946.86	946.86
PNX-ASM	Phoenix Annual Maintenance and Support - LINX Interface (Contracted with Northrop Grumman) Ongoing Support	1	0.00	0.00
PNX-ASM	Phoenix Annual Maintenance and Support - Rapid SOS-Portal Enhanced Interface	1	0.00	0.00
PNX-ASM	Mobile Fire Inspections App (4)	1	1,429.64	1,429.64
PNX-ASM	Phoenix Annual Maintenance and Support - Text2Dispatch Interface	1	1,987.50	1,987.50
PNX-ASM	Phoenix Annual Maintenance and Support - Twilio Text Usage	1	4,000.00	4,000.00
PNX-ASM	Phoenix Annual Maintenance and Support - Live Stream to Dispatch	1	0.00	0.00
PNX-ASM	Phoenix Annual Maintenance and Support - Interview and Interrogation Hardware and Licenses (1)	1	0.00	0.00
PNX-ASM	Phoenix Annual Maintenance and Support - Citizen Services WEB Program	1	12,720.00	12,720.00
Maintenance Period: 1/1/2022 - 12/31/2022				

	Total	\$242,840.12
Tax ID	20-5731095	

Please make checks payable to "ProPhoenix".
 For Billing inquiries, please contact your Project Manager or Jeff Roll at extension 251 or
 e-mail to jeff@prophoenix.com. It's been a pleasure working with you!

Payments/Credits	\$0.00
Balance Due	\$242,840.12