

## CONTRACT AND SOFTWARE LICENSE AGREEMENT

This Contract and Software License Agreement (hereinafter referred to as the "Agreement") is made and entered into this 1<sup>st</sup> day of JUNE, 2011 by and between **Emergency Technologies, Inc.**, a North Carolina corporation with its principal place of business located at 8521 Six Forks Road, Suite 110 Raleigh, North Carolina 27615 (hereinafter referred to as "ETI") and the **City of Oxnard, California**, a local government agency with its principal location at 305 West Third Street, Oxnard, CA 93030, (hereinafter referred to as "Licensee").

### **EXHIBITS**

The Exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement will take precedence over the Exhibits and any inconsistency between the Exhibits will be resolved in the order in which they are listed.

<b>Exhibit A</b>	<b>Costs</b>
<b>Exhibit B</b>	<b>Payment Schedule</b>
<b>Exhibit C</b>	<b>Software Maintenance Agreement</b>
<b>Exhibit D</b>	<b>Statement of Work (SOW)</b>

In consideration of the mutual covenants, agreements, benefits and obligations set forth herein, the parties hereby agree as follows:

#### **1. Definitions.**

- (a) "ETI software" shall mean those software modules listed and described in Exhibit A or contractual equivalent that have been selected by Licensee to be licensed pursuant to this Agreement.
- (b) "Documentation" means collectively the written materials delivered with the ETI software describing its structure and process for use.
- (c) "Materials" shall mean collectively the ETI software and Documentation.

**2. Grant of License.** ETI hereby grants to Licensee, and Licensee accepts, a nonexclusive, nontransferable license to use and display the Materials in accordance with the terms of this Agreement, and specifically but without limitation as follows:

- (a) The number of workstations that the Licensee may permit to run ETI software shall be as indicated in Exhibit A or contractual equivalent. A workstation is defined as a physical PC or equivalent terminal. This is also referred to as 'seat' or CPU licensing.
- (b) The Materials may be used only by Licensee and only for Licensee's own benefit; Licensee may not use the Materials for the benefit of or to provide output on a commercial basis to third parties.
- (c) Licensee may not sublicense, rent, distribute, lease, or otherwise assign Licensee's rights in the Materials, except as specified in this Agreement.
- (d) Licensee may use the Materials solely in their original form, and may not change, alter or modify the Materials, nor may Licensee create derivative works, or translate, reverse assemble, reverse compile, disassemble, or in any way reverse engineer the Software.

(e) Licensee may not copy, or otherwise reproduce in any fashion, the ETI software, in whole or in part, except in the course of backing up a hard disk drive upon which the ETI software has been rightfully installed or for the purpose of making no more than one (1) copy for archival, back-up or disaster recovery purposes. Licensee may not copy the Documentation.

(f) Any (i) updates; (ii) new versions; (iii) modifications made by ETI pursuant to any maintenance or custom programming agreement or otherwise; (iv) any software modules offered by ETI that may be added to the ETI software at a later date; and (v) additional copies of the ETI software or Documentation shall also become part of the Materials and shall be governed by the terms of this License.

(g) Licensee may not export or re-export the Materials or any copy or adaptation of the Materials in violation of any U.S. Export Administration regulation or other applicable regulation.

(h) All rights not expressly granted are reserved to ETI, including the right to sell or give licenses to use the Materials to other licensees.

### **3. Licensee's Responsibilities.**

(a) Licensee is solely responsible for determining whether the Materials will achieve the results desired by Licensee;

(b) Licensee is solely responsible for converting its data for use on the ETI software;

(c) Licensee is solely responsible for compliance with the installation guidelines and requirements in the Documentation;

(d) After ETI provides initial Train-the-Trainer training, Licensee is solely responsible for selecting and training Licensee's personnel so that they are familiar with the information, calculations, and reports that serve as input and output for the ETI software;

(e) It is expressly understood and agreed between ETI and Licensee that Licensee has elected to purchase hardware from sources other than ETI that is sufficient to meet Licensee's needs and is compatible with the minimum hardware and software requirements for the ETI software as specified in ETI's Hardware Spec or contractual equivalent.

(f) Licensee is solely responsible for supervision, management, and control of the use of the Materials, including without limitation:

(i) Assuring proper operating procedures, and hardware and operating system installation;

(ii) Providing a proper physical environment and set of software utilities and hardware accessories for the hardware on which the ETI software executes. The server or server(s) on which the ETI software is located, MUST have an Uninterruptible Power Supply (UPS) that is sufficient to maintain power to the server(s) for at least 15 minutes in the event of a power failure. In addition, the UPS must have the capability to perform an unattended, automatic, orderly shutdown on the server(s) when power is not restored and the UPS is unable to continue on battery power.

(iii) After ETI provides initial Train-the-Trainer training, Licensee is responsible for providing for adequate training on the ETI software's operation, procedures and controls for Licensee's personnel; and

(iv) Establishing and implementing adequate backup plans to diagnose and/or repair hardware and media (e.g., disk, diskette, tape) defects related to use of the ETI software in the event of their malfunction.

(v) Performing system backups on an on-going basis. Licensee is responsible for ensuring that the backups contain the all the files necessary to restore the ETI software to an operational status. An automatic backup system is highly recommended. If an automated backup system is used, it is highly recommended that the system be backed up each night. In any event, the licensee is required to make ongoing backups at a frequency of no greater than one week.

4. **Support and Maintenance.** Support and maintenance, including without limitation any assistance sought in installation of or training on the use of the ETI software or customization of the ETI software, is provided pursuant to Exhibit C ETI Software Maintenance Agreement and Exhibit D Statement of Work.

5. **Payments.**

For the licenses granted under this Agreement, Licensee shall pay to ETI the license fee specified in Exhibit A Costs.

6. **Term and Termination.**

(a) This Agreement is effective, after execution by Licensee, from the date on which an authorized representative of ETI executes this Agreement at ETI's offices in North Carolina, and shall remain in effect until terminated.

(b) Licensee may terminate this Agreement at any time.

(c) The license granted under this Agreement shall terminate immediately and without notice if Licensee violates any of the terms of Paragraph 10. Further, Licensor may terminate this Agreement upon thirty (30) days' notice to Licensee of any breach of the terms hereof by Licensee, unless such breach is cured within the notice period.

(d) Upon termination of this Agreement for any reason ETI is discharged from any further obligations under this Agreement related to the Materials, and Licensee's rights to use and display the Materials shall cease as of the date of such termination. Licensee shall remove the ETI software from all hard drives and libraries, and shall return, or certify the destruction of, all copies of the Materials.

(e) All requirements of indemnification, payment, and terms related to use or protection of intellectual property or confidential information, and provisions related to venue, jurisdiction, choice of laws, injunctive relief, and the effect of termination, shall survive termination or expiration of this Agreement. ETI shall be entitled to pursue all available remedies against Licensee for breach of this Agreement or damages caused by Licensee.

7. **Warranty and Indemnification by ETI.**

(a) ETI warrants to Licensee that ETI has the right to enter into this Agreement and to grant the licenses granted in Paragraph 2, and that for a period of ninety (90) days after the Effective Date of this Agreement the ETI software will operate in substantial conformance with the Documentation. THE FOREGOING IS THE ONLY WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY AND SPECIFICALLY EXCLUDED. ETI SPECIFICALLY BUT WITHOUT LIMITATION DISCLAIMS ANY WARRANTY THAT THE ETI SOFTWARE IS FREE OF ALL DEFECTS AND LICENSEE ACCEPTS THE ETI SOFTWARE "AS IS". NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ETI OR ITS EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY, AND LICENSEE SHALL NOT RELY ON ANY SUCH INFORMATION OR ADVICE.

- (b) ETI shall, at its cost, defend or, at its sole option, settle any claim or suit brought against Licensee on the issue that the Materials infringe a United States copyright, provided that Licensee (i) notifies ETI promptly in writing of any such claim or suit; (ii) gives ETI full information and assistance in settling and/or defending the suit; and (iii) gives ETI full authority and control of the defense and/or settlement of any such action. ETI shall not be liable for any costs or expenses incurred (x) by Licensee without ETI 's prior written authorization; (xi) for any claim based on the use of a combination of the ETI software with any other software not provided by ETI , (xii) for any claim based on Licensee's modification of the Materials; (xiv) from use of other than the latest available version of the Materials, provided that the version containing the correction of the infringement has been made available to Licensee at no charge ; or (xv) any transaction entered into by Licensee relating to the Materials without ETI 's prior written consent.

If the Materials become subject to a claim of infringement for which ETI may become liable, ETI may at its option (i) obtain the right to continue using the Materials; (ii) replace or modify the Materials to make them non-infringing so long as the replacement or modification meets substantially similar specifications; or (iii) terminate this Agreement and refund to Licensee the license fees paid under this Agreement, excluding the fees paid for any updates, modifications, new versions, and additional copies. EXCEPT FOR THESE REMEDIES, ETI SHALL HAVE NO LIABILITY TO LICENSEE OR ITS CUSTOMERS FOR COPYRIGHT INFRINGEMENT, AND SHALL IN NO INSTANCE HAVE ANY LIABILITY TO LICENSEE FOR DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES FROM INFRINGEMENT.

- (c) ETI does not guarantee, warrant or offer any patent protection to Licensee on any of the Materials and ETI shall not be obligated, liable, or in any way responsible to Licensee because of any alleged or actual violation of patent rights. ETI does represent that to the best of its knowledge, as of the date of this Agreement, the ETI software is not infringing on any United States patent.
- (d) ETI agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability, claims, demands, actions, damages (including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration that arise from any negligent or willful acts or omissions related to this Agreement performed by ETI or ETI's agents, employees, sub-consultants, subcontractors, or other persons acting on ETI's behalf.

**8. Indemnification by Licensee.** Licensee shall indemnify and hold ETI and its directors, officers, employees, and agents harmless from any claim or cause of action brought by Licensee's clients or customers, whether at law or in equity, as a result of any error or omission in Licensee's data processing.

**9. Limitation of Liability.**

- (a) Licensee agrees that regardless of the form of any claim, LICENSEE'S SOLE REMEDY AND ETI'S SOLE OBLIGATION SHALL BE GOVERNED BY THIS AGREEMENT, AND IN NO EVENT SHALL THE LIABILITY OF ETI EXCEED THE INITIAL LICENSE FEE PAID FOR THE ETI SOFTWARE BY LICENSEE, EXCLUDING THE FEES PAID FOR ANY UPDATES, MODIFICATIONS, NEW VERSIONS, AND ADDITIONAL COPIES. PROVIDED, HOWEVER, THAT THE LIMITATION OF LIABILITY DESCRIBED IN THE PRECEDING SENTENCE SHALL NOT APPLY TO LIABILITY PURSUANT TO SECTION 7(d) ABOVE. LICENSEE EXPRESSLY AGREES THAT IN NO EVENT SHALL ETI BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES ARISING FROM BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, OR ANY OTHER LEGAL THEORY, WHETHER IN TORT OR CONTRACT, EVEN IF ETI HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING, INCLUDING WITHOUT LIMITATION DAMAGES FROM INTERRUPTION OF BUSINESS, LOSS OF PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE OF SOFTWARE, LOSS OF DATA, COST OF RECREATING

DATA, COST OF CAPITAL, COST OF ANY SUBSTITUTE SOFTWARE, OR LOSSES CAUSED BY DELAY. ETI shall not be responsible for any damages or expenses resulting from alteration or unauthorized use of the Materials, or from the unintended and unforeseen results obtained by Licensee resulting from such use. Termination of this Agreement pursuant to its various termination terms shall not result in liability of ETI to Licensee for damage, loss or expense, and Licensee expressly waives such claims.

- (b) Should any law under which this Agreement is interpreted prohibit exclusion of certain warranties, the required warranties shall be deemed included. The liability of ETI for any breach of such term, condition or warranty shall be limited, at the option of ETI, to any one or more of the following: (i) replacement of the ETI software with equivalent software; (ii) correction of the Materials; (iii) payment of the cost of replacing the Materials or of acquiring equivalent software and documentation; (iv) payment of the cost of having the Materials corrected; or (v) payment of the initial licensee fee paid for the ETI software by licensee, excluding the fees paid for any updates, modifications, new versions, and additional copies.

**10. Protection of Intellectual Property.**

- (a) The Materials are protected under the copyright laws of the United States and certain other countries that have entered into treaties with the United States, in either registered or unregistered form. Licensee acknowledges that ETI owns these copyrights and that ETI has the following exclusive rights with regard to the Materials: to reproduce the Materials and documentation in any and all forms; to adapt, transform or rearrange the Materials; to prepare derivative software; and to control the distribution of the Materials. Licensee agrees not to act in contravention of any of ETI's rights or to assist others in doing so. Licensee agrees to preserve all copyright notices in the Materials and otherwise do all things necessary to preserve the full extent of ETI's copyright protection.
- (b) Notwithstanding the copyright, the Materials also contain trade secrets and confidential information, which are valuable property of ETI. Licensee acknowledges that as a result of this Agreement, Licensee will acquire and/or have access to and make use of these trade secrets and confidential information. As a material inducement to ETI to contract with Licensee, Licensee covenants and agrees to preserve all trade secrets and confidential information of ETI and not to disclose or use in any way, either during or after the term of this Agreement, any ETI trade secrets or confidential information known to Licensee as a result of this Agreement or Licensee's relationship with ETI, except as authorized by ETI in writing. Trade secret and confidential information shall include, without limitation, the code contained in the ETI software which is not readily obvious from normal use, designs, engineering details, and any other item or area which ETI notifies Licensee in writing is confidential. When the Agreement is terminated, Licensee shall return to ETI all materials containing such trade secret or confidential information.
- (c) Rights are reserved under copyright laws of the United States with respect to unpublished portions of the Materials.
- (d) Notwithstanding paragraphs 10(a) and 10(b) above, Licensee may disclose any information which it is obligated by law to disclose to the public, including information required to be disclosed by the California Public Records Act, without written authorization from ETI, provided, that, Licensee shall promptly notify ETI of any such disclosure, and, in any case, within seven (7) business days of making such disclosure.

- 11. Source Code.** Provided that Licensee has in effect, and has paid all amounts due under, a maintenance and support agreement with ETI (or its successors or assigns with respect to the Materials), then in the event that ETI should cease to offer maintenance and support, ETI shall make available to Licensee, upon request of Licensee, the source code for the ETI software, as it exists at that time and pursuant to a source code license. The source code license shall limit usage in the same manner as hereunder, except that the source code may be used for maintenance and support of the ETI software in its licensed usage; the source

code license shall end, and the source code shall be returned to ETI, at any time that maintenance and support is again offered to Licensee.

12. **U.S. Government Restricted Rights.** It is acknowledged that the Materials were developed at private expense, that no part is in the public domain, and that the ETI software is Commercial Computer Software provided with RESTRICTED RIGHTS under Federal Acquisition Regulations and agency supplements to them. Use, duplication or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c) (1) (ii) of The Rights in Technical Data and Computer Software clause at DFAR 252.227-7013 et. seq. or subparagraphs (c) (1) and (2) of the Commercial Computer Software--Restricted Rights at FAR 52.227-19, as applicable. Contractor is ETI software Inc., 8521 Six Forks Rd, Suite 110, Raleigh, NC 27615.
13. **Notices.** Any notice made in relation to this Agreement shall be in writing and, in the case of ETI, shall be sent to the addresses set forth above and, in the case of Licensee, to the address provided below, or, in either case, to such other address as the intended recipient has previously designated by written notice. The notice shall be sent by (a) a prepaid courier service which requires signature for receipt; (b) registered or certified mail, return receipt requested, postage prepaid; or (c) facsimile. A notice shall be deemed to be given when the courier package is signed for at the address.
- If notice to Licensee, then to:
- Oxnard Fire Department  
360 W. Second Street  
Oxnard, CA 93030
14. **Assignment; Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors in interest, but the rights granted under this license to Licensee may not be assigned or transferred without the prior written consent of ETI.
15. **Waiver of Compliance.** Any failure by ETI to enforce at any time any term or condition under this Agreement shall not be considered a waiver of ETI 's right thereafter to enforce each and every term and condition of this Agreement.
16. **Force Majeure.** ETI shall not be liable for any failure or delay in performance of any obligation under this Agreement if such failure or delay is caused by circumstances not directly under the control of ETI, including without limitation, failure resulting from acts of God, acts of public authorities, wars and war measures, strikes, fires, delays of suppliers, subcontractors, or carriers, or serious illness of key personnel.
17. **Governing Law, Adjudication, and Severability.** This Agreement is to be governed by, and interpreted in accordance with the laws of the State of California, exclusive of its conflicts of law provisions. Customer agrees that any litigation arising out of this Agreement shall have exclusive venue in, and the parties shall submit themselves to the jurisdiction of, the Federal and State courts of Ventura County, California. If any provision of this Agreement shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remainder of this Agreement, but shall be confined in its operation to the provision of this Agreement directly involved in the controversy in which such judgment shall have been rendered, and the invalid or unenforceable provision shall be struck.

18. **Injunctive Relief.** The parties recognize and agree that because of the unique nature of the copyright and other intellectual property contained in the Materials, any breach of this Agreement related to infringement of intellectual property rights or any breach of Paragraph 12 will irreparably injure ETI in a manner for which ETI could not adequately be compensated by remedies at law. Should Licensee breach or attempt to undertake such breaches, ETI shall be entitled to an injunction from a court of law or equity restraining Licensee from doing or continuing to do or performing any such acts.
19. **Entire Agreement.** This Agreement supersedes all prior agreements and understandings between the parties, oral or written, and constitutes the exclusive understanding of the parties with respect to the subject matter hereof. No change, termination or attempted waiver of any of the provisions hereof shall be binding unless in writing and signed by both parties.
20. **Signatures**  
City and Consultant agree that this Agreement constitutes the entire agreement of the parties regarding the subject matter described herein and supersedes all prior communications, agreements, and promises, either oral or written.

**EXHIBIT A  
COSTS**

**Assumptions**

This project will include delivery and installation of the then-current production version of ETI's Visual Fire™. The hardware must meet ETI's recommended minimum hardware requirements.

Item Number	Qty	Product Code	Description	Unit Price	Extended Price
<b>Desktop</b>					
1	1	FRMS	Visual Fire Enterprise – 18 Workstation License	\$40,230	\$40,230
2	1	FRMS-CAD	CAD One-Way Feed to Incident Reports*	\$28,995	\$28,995
3	1	FRMS-RST	Visual Fire Shift Scheduler w/ Telestaff Interface	\$11,700	\$11,700
Total for Desktops					\$80,925
Tier Discount					-\$8,093
<b>Net Total for Desktops</b>					<b>\$72,833</b>
*CAD Access may require third party software and Interfaces					

<b>Mobile</b>					
4	1	FRMS-MDM	Visual Fire Mobile – 23 License	\$47,265	\$47,265
5	1	FRMS-AIR	CAD Access for Mobile *	\$0.00*	\$0
Total for Mobiles					\$47,265
Tier Discount					-\$4,727
<b>Net Total for Mobiles</b>					<b>\$42,539</b>
*Mobile CAD Access may require third party software and Interfaces and broadband connectivity to the central server.					

<b>Professional Services</b>					
6	1	FRMS-PROJ	Project Management - Fixed Cost	\$12,819	\$12,819
7	1	FRMS-ATP	Conduct ATP / Functional Acceptance Test ( 2 Day Max)	\$2,600	\$2,600
8	1	FRMS-GOLIVE	"Go Live" On-Site Support (per day)	\$895	\$895
9	1	FRMS-INT	Product Installation	\$1,600	\$1,600
10	2	FRMS-INT-TM	Product Installation & Configuration Training for Mobile	\$1,295	\$2,590
11	1	FRMS-INT-CAD	Integrated CAD Setup & Configuration	\$1,495	\$1,495
12	5	FRMS-CRPT	Custom Report Development (per day)	\$895	\$4,475
13	1	FRMS-CUST	Initial (one time) import and configuration of Master Locations *** Must be provided in ETI format.	\$2,990	\$2,990
14	1	FRMS-IMP	Import & Configuration of Personnel and Equipment	\$2,995	\$2,995
15	1	FRMS-SA-Aud	System Administrator Audit (SA-4)	\$895	\$895
16	5	FRMS-SA-BA	Business Analysis & Configuration (per day)	\$895	\$4,475
17	2	FRMS-SA-TRN	System Administrator Training (per day)	\$895	\$1,790
18	3	FRMS-SA-TRN	Project Contingency	\$895	\$2,685
19	7	FRMS-TRN	User Train-the-Trainer Training (per day)	\$895	\$6,265
<b>Total for Professional Services</b>					<b>\$48,569</b>

**Travel and Living Expenses**

20	1	FRMS-TE	Travel and Living Expenses (10 Trips)	\$9,496	\$9,496
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**Grand Total**

**\$173,436**

**Maintenance and Support**

21	1	FRMS-M&S	24 by 7 Maintenance and Support beginning one year after install	\$30,597	\$30,597
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Modules included in this Contract:

1. Administrative setup functions; the Visual Fire Desktop
2. NFIRS 5.0 Fire Incident Reporting
3. CAD Access \*
4. NFIRS 5.0 Data Export to the State Fire Marshal's Office
5. EMS ePCR
6. EMS QC Editor
7. EMS Audit Log
8. Training
9. Personnel
10. Shift Scheduling w/ Telestaff interface
11. Security
12. Equipment
13. Station Log
14. Fire Investigations
15. Fire Inspections
16. Permits
17. Systems Fire Inspections
18. Fire Pre-Plans (Premise)
19. Hydrants
20. Exposure Log
21. Crystal Viewer for Crystal Reports
22. Crystal Viewer Administrator
23. Chemical List

24. Master Locations
25. Master Names
26. Visual Fire Mobile
27. Mobile CAD Access \*

Available options not included in this Contract:

1. Account Management Services
2. Full System Audit Log
3. Supply
4. Geo-Validation
5. Mobile Pre-Plan Popup
6. EMS Billing Export
7. EMS State Data Export (NEMESIS)
8. Custom Modification and Development
9. Custom Data Conversion
10. EMS Fax Communication Server
11. Fire View (Map Analysis)
12. Fire Zone (Diagramming tool)
13. Fire Sketch (Diagramming tool)
14. 5 by 9 Maintenance \*\*
15. Mobile Command (NIMS-ICS)

Microsoft and Third Party Licenses:

No Microsoft or third-party licenses are included in this contract.

Hardware:

No hardware is included in this contract.

CAD Access \*

CAD Access may require third party software and Interfaces. CAD Access is one-way closed call download of incident information and does not include Geo-verification. Mobile CAD Access requires a broadband connectivity to the main server.

Maintenance and Support: \*\*

Maintenance and support for the first year is included in the base price of Visual Fire Ongoing maintenance costs begin one year from install and are reflected above in item number 21. Desktops and Mobiles must have the same level of support. See Exhibit C – Software Maintenance Agreement for additional details. Pre-Paid Maintenance and Support Discounts are available

This document has been prepared by Emergency Technologies, Inc. and is a confidential document that contains ideas, concepts, methods and other proprietary information. Readers are to treat the information contained herein as confidential and may not copy or reproduce any of these materials for distribution outside of their organization without the written permission of Emergency Technologies, Inc.

## EXHIBIT B PAYMENT SCHEDULE

Description	Total Costs
Total Licenses	\$115,371
Professional Services & Travel	\$58,065
<b>Total Project</b>	<b>\$173,436</b>

Based upon a total fixed cost of \$173,436 payments to ETI will be made upon reaching the following milestones:

Payment Milestones	Basis	Amount Price
Contract Signing	60% of Software License Costs	\$69,223
Software installation	15% of Software License Costs	\$17,306
Go-live of the first two modules	15% of Software License Costs	\$17,306
Completion of 30 Calendar Days with No Severity 1 Errors after 1st module goes live	10% of Software License Costs	\$11,537
Beginning of Training	60% of Professional Services and Travel Costs	\$34,839
Completion of Training	40% of Professional Services and Travel Costs	\$23,226
	<b>Total</b>	<b>\$173,436</b>

## Exhibit C

### Emergency Technologies Inc. SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT

This Software Maintenance and Support Agreement (hereinafter referred to as the "Agreement") is entered into this 15 day of JUNE, 2011 by and between **Emergency Technologies, Inc.**, a North Carolina corporation (hereinafter referred to as "ETI"), and the **City of Oxnard, CA**, a local government (hereinafter referred to as "Customer").

WITNESSETH:

WHEREAS, ETI and Customer entered into that certain Emergency Technologies Software License Agreement dated of even date herewith (the "Agreement") under which Customer obtained a perpetual, non-exclusive, nontransferable license to use certain computer software in object code form and related user documentation on certain terms and conditions;

WHEREAS, Customer desires to receive the Support, as defined herein, from ETI and ETI desires to render the Support to Customer with respect to the Licensed Program (as hereinafter defined) on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the premises hereof, and the mutual obligations herein, the parties hereto, intending to be legally bound, hereby agree as follows:

#### **Section 1** Definitions.

For the purposes of this Agreement, the following definitions shall apply to the respective capitalized terms:

1.1 "Coverage Time" shall mean Monday through Friday 8:00 a.m. to 5:00 p.m. Eastern time, excluding ETI holidays. 24x7 Support coverage has been elected. See Section 3.1 (g).

1.2 "Documentation" shall mean collectively the written materials delivered with the ETI software describing its structure and process for use.

1.3 "Effective Date" shall mean the date on which an authorized ETI representative accepts this Agreement as indicated by the signature and date at the end of this Agreement.

1.4 "Customer Error" shall mean an error in the functioning of the ETI software which results from any of the following: (a) use of the ETI software in a manner that is not reasonably within ordinary use of the ETI software, as specified in the Materials for the Version of the ETI software being used by Customer; or (b) inputting of incorrect data by Customer; or (c) nonstandard characteristics of Customer's hardware, network, or network configuration; or (d) interaction with other software installed on Customer's hardware; or (e) failure to follow instructions given by ETI technical staff; or (f) attempted execution of the ETI software on hardware not of the type listed in the Documentation; or (g) unauthorized software alterations (including problems, errors, or malfunctions caused or created by the operator), customizing of programs, accident, neglect, power surge or failure, lightning, operating environment not in conformance with the manufacturer's specifications (for electric power, air quality, humidity or temperature), operating system errors, or hardware malfunction; or (h) Customer's continued use of data that either

Customer or ETI has determined to be flawed or damaged; or (i) Any problems caused by Customer adding, deleting, altering or modifying any part of the database structure in anyway.

1.5 "Enhancement" shall mean any modification or addition that, when made or added to the ETI software materially changes or upgrades its utility, efficiency, functional capability or application.

1.6 "Error Correction" shall mean either a software modification or addition that, when made or added to the ETI software, establishes material conformity of the ETI software to the Documentation, or a procedure or routine that, when used in the regular operation of the ETI software, eliminates the nonconformity's practical adverse effect on Customer. Without limiting the foregoing, Error Correction does not include repair or recreation of data files as a result of software malfunction. In the event that the Documentation is incorrect, it will be corrected as an Error Correction.

1.7 "Materials" shall mean collectively the ETI software, the Documentation, and other materials related to the ETI software and provided for use in connection with the ETI software or maintenance and support services.

1.8 "Reproducible Material Error" shall mean a failure of the ETI software to operate in substantial conformance with the Documentation. The Reproducible Material Errors must be able to be recreated by ETI under the same or similar conditions with reasonable effort on hardware of the type listed in the License Agreement. Any error constituting a Customer Error is excluded from this definition.

1.9 "ETI software" shall mean the software specified in the License Agreement, including any Error Corrections, Enhancements, Upgrades, New Versions, or portions thereof, which Customer may obtain pursuant to this Agreement or otherwise from ETI, together with any new Software Modules provided to Customer by ETI.

1.10 "Software Module" shall mean a software component which if included in the ETI software will contribute distinct functionality not otherwise available in the ETI software.

1.11 "System Administrator" shall mean an employee or agent of Customer who satisfies the requirements of this Agreement's Section 6.

1.12 "Upgrade" shall mean software program logic and documentation changes, corrections, and improvements which maintain the operational quality of the ETI software, including without limitation Error Corrections.

1.13 "Version" shall mean a significant modification of the ETI software, generally involving additional or significantly improved functionality. New Versions are indicated by whole integer increases in the Version number or a modified product name. Where consistent in the context of this Agreement, Version shall also mean a modification to an individual Software Module that is part of the ETI software, and which is indicated by whole integer increase in the Software Module's Version number or a modified Software Module name. Versions are provided at the sole discretion of ETI and may require payment of an additional fee. Upgrades and enhancements to existing modules that the City is licensed for will be provided at no charge as long as the City is currently paying maintenance. Any new module that is developed and added to the base system will be provided at no charge for the license. Any Version that is in the upgrade path for the version the City is licensed for will be provided to the City at no charge for the license.

**Section 2**  
Term of Agreement.

2.1 Term of Agreement. This Agreement shall be effective from the Effective Date of this Agreement and extend for a period of one year. Thereafter, the Agreement Term shall automatically renew for successive periods of one year each unless and until terminated pursuant to Section 8 hereof. In no event, however, shall the Agreement Term extend beyond the prescribed term of the License Agreement.

**Section 3**  
Standard Services.

3.1 Standard Services. ETI will provide at no charge beyond the annual Software Maintenance, the following maintenance and support services in support of the ETI software:

(a) Error Corrections. Upon notification by Customer's System Administrator, as required by Section 5.5, that a Reproducible Material Error may exist, ETI shall use good faith, reasonable efforts to determine if such an error exists, and to notify Customer whether the problem is a Reproducible Material Error or a Customer Error. If it is a Reproducible Material Error, ETI shall respond with reasonable speed and make reasonable efforts to create an Error Correction. When possible, ETI will provide Error Corrections via scripts. If the Error Correction requires a code change ETI will provide the Correction in the next available build cycle. ETI will include the Error Correction in all subsequent Versions of the ETI software. ETI shall not be responsible for correcting Reproducible Material Errors in any Version of the ETI software other than the most recent Version.

(b) Enhancements and Upgrades. ETI may, from time to time, create Enhancements or Upgrades to the ETI software. ETI shall consider and evaluate the development of any Enhancements requested by Customer, but ETI shall have no obligation to create any specific Enhancements. ETI may supply Customer with Enhancements and Upgrades at no additional charge. All Enhancements and Upgrades provided become part of the Materials, are governed by the Software License, and will be maintained as ETI software.

(c) Telephone Support Assistance. During Coverage Hours ETI shall accept telephone calls from System Administrators reporting problems with the ETI software and seeking assistance in its use; ETI has no obligation to accept or respond to calls from other than a System Administrator. If ETI chooses to respond to a call from Customer's personnel other than a System Administrator, ETI reserves the right to bill for such support in accordance with Section 5.6. ETI will make an initial response to Customer's requests for support communicated through ETI's service number by System Administrators by the end of the next business day. Support is provided exclusively for problems related to the operation or functionality of the Materials. ETI shall not provide support for any Version of the ETI software other than the most recent Version, except that ETI will continue to support a prior Version for a period of three hundred sixty-five (365) days after release of a new Version.

(d) Changes in Services. ETI reserves the right to change the scope or terms of services provided pursuant to this Section 3 for any upcoming term of this Agreement, provided that notice must be given at least sixty (60) days before any renewal term for the changes to be effective during the renewal term.

(e) Excluded Services. ETI shall have no obligation to provide any services not specifically listed in Section 3(a)-(c) of this Agreement. The following items are specifically not covered by this Agreement, without limitation:

(i) Any hardware failure including, but not limited to, failure caused

by wiring, multiplexers, modems, phone lines, power, or connectors, and any hardware limitations due to insufficient memory, disk storage, incorrect configuration or processing power;

(ii) Any problems caused by hardware failure;

(iii) Any work required to restore or recover the operating system and/or data files;

(iv) Any problem caused by Customer;

(v) Any configuration (including client/server configurations), maintenance, or upgrading of the operating system or network operating system including, but not limited to, backups and restorations, fixes, and patches; and any nonconformity resulting from Customer's misuse or improper use of the licensed program or combining or merging the licensed program with any hardware or software not supplied by ETI, or not authorized to be so combined or merged by ETI, shall not be considered an Error. Nor shall license program or data file damage resulting from unauthorized software alterations (including problems, errors, or malfunctions caused or created by the operator), customizing of programs, accident, neglect, power surge or failure, lightning, operating environment not in conformance with the manufacturer's specifications (for electric power, air quality, humidity or temperature), operating system errors, or hardware malfunction be considered an Error.

(vi) Any problem caused by Customer creating a publication or restoring a backup of database with a publication, including but not limited to, detaching and re-attaching a database with a publication;

(vii) Any problems caused by Customer adding, deleting, altering or modifying any part of the database structure in anyway;

(viii) Any problems caused by Customer making any data changes from any source other than through the user interface

(ix) Any problems caused by an incorrectly installed, configured, or maintained operating system or network operating system, or versions of such operating systems not supported by ETI; and

(x) Any problems with, or caused by any software not supported by ETI, including, but not limited to, computer aided dispatch (CAD) systems, law enforcement records management systems, word processors, spreadsheets, communications programs, operating systems and network operating systems.

(xi) Any activity related to the process of physically conducting inspections, taking inventory, issuing permits or other job-related functions (as distinct from the computerized aspect of such functions).

(xii) System software installations made by the Customer without authorization of ETI such as installing or upgrading the operating system, any required third-party applications or a new SQL version.

(f) Severity Levels and Response Times. ETI will classify all support items using the definitions in Table 1. Each support item will be entered into ETI's ticket tracking system and the user will be informed of the ticket number. The hours and days that are listed in the response time as 'business hours' or 'business days' are to be interpreted as ETI's normal business operating workdays (Monday-Friday 8AM-5PM EST).

Table 1. Support Severity and Response Levels

SEVERITY LEVEL	DEFINITION	RESPONSE TIME	TARGET RESOLUTION TIME	EXAMPLE FIRE RMS
1	Total System Failure <sup>1</sup> - occurs when the System is not functioning and there is no workaround; the entire Visual Fire/Visual EMS system is not functioning.	Response within one (1) business hour of acknowledgement of initial notification from ETI.	Resolve within 24 business hours of initial notification	Inability for users to gain access to any module, all modules inoperable or inaccessible.
2	Critical Failure - Critical process failure occurs when a module (e.g. NFIRS) or interface in the System is not functioning that does not prohibit continuance of basic operations in other modules and there is usually no suitable work-around. This is not applicable to intermittent and non-reproducible problems or errors.	Response within three (3) business hours of acknowledgement of initial notification from ETI.	Resolve within 3 business days of initial notification	In NFIRS module, users cannot access existing reports or create new reports. The CAD interface is not functioning.
3	Non-Critical Failure - Non-Critical part or component failure occurs when a System component is not functioning, but the System is still useable for its intended purpose, or there is a reasonable workaround.	Response within two (2) business days of acknowledgement of initial notification from ETI.	Resolve in next Supplemental Release within 180 calendar days following verification	Spell-checker fails to run.
4	Inconvenience - An inconvenience occurs when System causes a minor disruption in the way tasks are performed but does not stop workflow.	Response within four (4) business days of acknowledgement of initial notification from ETI.	Resolve in a future Supplemental Release	Error or dialogue box message such as "Resources Not Available" appears, but does not affect functionality.
5	Customer request for an enhancement to System functionality is submitted in writing.	Written response within thirty (30) business days	If accepted, a release date will be provided with a fee schedule, as appropriate.	

Notes:

1. This does not apply to a situation where some workstations cannot run the FRMS due to a network problem. This applies to a condition that effect all workstations and is due to an ETI product problem.
2. This does not apply when an interface does not function due to a problem with the other system in the interface.

(i) ETI will use the severity guidelines in the Table 1 to determine when remote support is not sufficient and ETI must come on-site to resolve the problem. For example, if there was a Severity level 1 problem and remote attempts had not been successful and were not expected to be successful within the target resolution time, then ETI would send a systems engineer on-site to address the problem. ETI would then continue to work the problem until resolved with on-site and remote resources. The costs incurred for on-site support will be paid by ETI.

(ii) If it is determined that the problem is due to a non-ETI product problem, then the cost incurred will be billable to the client. The daily rate for ETI personnel on-site is \$995 per day, or then current prevailing professional services or development rate will apply, plus all travel and living expenses.

(g) 24x7 Support. If Customer has purchased the optional 24x7 support option, ETI support shall be limited to Severity Level 1 and 2 errors as defined in Table 1 above. Severity Level 1 and 2 shall be reported by an authorized and recognized System Administrator following the ETI after hours notification process. Errors other than Severity Level 1 and 2 will not be supported other than during normal Coverage Time.

#### **Section 4** **Other Services.**

4.1 Other Services. ETI may furnish the following "Other Services":

- (a) Account Management. If the Customer has elected to purchase the optional Account Management Service the Customer will have a dedicated Account Manager who will provide monthly status reports, one site visit per year, and project plans. This service is available after initial Project Management services are fulfilled and the Customer is turned over to support. Account Management services are in addition to routine support not a replacement for support. All Errors shall be reported through support. The Account Manager provides monthly updates and tracks all tickets and projects to completion.
- (b) Training Classes. ETI will provide to the Customer the training classes listed in Exhibit D for attendance by Customer's System Administrators or other personnel. In the event the training classes are presented at Customer's facilities, Customer shall provide all furnishings and equipment required, including without limitation lecterns, writing surfaces, chairs, overhead projector and the number of computer systems indicated by ETI as necessary for training of the number of persons intended to attend any specified class. Each Customer (student) participant must have his/her own computer system to use. Class sizes are limited to a one instructor to twelve student ratio. Training classes shall be conducted during normal business hours (8AM to 5PM) on normal business days (Monday through Friday). Any class conducted outside normal business hours may be subject to additional fees. If training classes are not part of the original contract additional costs, including travel and living expenses shall be required.
- (c) Installation Services. ETI will undertake installation of the ETI software on the server, including any Upgrades, Enhancements or New Versions, in accordance with this Agreement. To the extent that installation services are to be performed at Customer's facilities, Customer shall provide, at no cost to ETI, office space, electrical power, telecommunications capability, network connectivity, computer printing capability, clerical and reproduction services, office supplies, parking, and other equipment, facilities or assistance as needed to perform the installation services. In addition Customer shall provide access to and use of Customer's computer equipment and software, as is reasonably required for the performance of the installation services. Customer is responsible for keeping a backup of all data files prior to the installation which allow for the recreation of the data files in the event that those provided to ETI are lost or destroyed during the installation.
- (d) Data Conversion Services. No data conversion services are within scope of this project. If ETI undertakes or assists in conversion of Customer's data to an electronic format compatible for use with the ETI software a separate change order or SOW would be executed with the specifications, terms and fees defined.
- (e) New Versions. ETI may, from time to time, create New Versions of the ETI software. New Versions or new Software Modules to the ETI software may be provided to Customer at ETI's sole discretion. ETI has discretion over what will be offered as a Version or Software Module and what additional charge will be made for each Version or Software Module. Versions and Software Modules may in and of themselves require Customer training prior to use. If training is required, then training, including travel and living expenses, shall be separately priced, in

accordance with Section 4(b). All Versions and Software Modules provided become part of the Materials, are governed by the Software License, and will be maintained as ETI software. Upgrades and enhancements to existing modules that the City is licensed for will be provided at no charge as long as the City is currently paying maintenance. Any new module that is developed and added to the base system will be provided at no charge for the license

(f) Customer Error. If Customer notified ETI of a Material Error pursuant to Section 1.8, and after investigation by ETI it is determined by ETI that the problem is not a Reproducible Material Error, but rather a Customer Error, all time and expenses accrued in making this determination shall be billed to Customer. Customer may request ETI to investigate and correct such a Customer Error for an additional fee.

(g) Miscellaneous Services. In addition to those services specified in Section 4.1, other maintenance and support services, including but not limited to assistance provided on-site, custom programming, consulting, project management, operations support, correction of Customer Errors, responding to calls from other than a System Administrator, provision of "excluded services under Section 3.1(e), and provision of services otherwise included in Section 3 beyond the level specified in Section 3 or outside of normal business hours, may be furnished by ETI subject to additional fees and staff availability.

## **Section 5**

### Customer Obligations.

5.1 Maintenance of Software License. Customer shall at all times have in effect a valid Software License for use of the ETI software.

5.2 Payments. Customer is, and remains, in compliance with the schedule of payments of the contract and annual support payments.

5.3 Customer Responsibility for Hardware, Software, and Communication Services. In order for Customer to obtain from ETI the services called for by this Agreement, Customer is solely responsible for procuring, installing, and maintaining all equipment, telephone lines, communications interfaces, and other software or hardware necessary to operate the ETI software, ETI reserves the right, from time to time, to require hardware and/or software upgrades or new version to support Upgrades, Enhancements or new Version of the ETI software.

5.4 High-Speed Remote Access. Customer will provide a reliable, high-speed internet connection and enable ETI to have remote access and connectivity to the live, production ETI software.

5.5 Customer Notification of ETI. Customer shall notify ETI, in writing or by telephone, within fifteen (15) days of discovering any error or malfunctions that Customer believes is a Reproducible Material Error, and provide ETI with physical evidence of such error. Customer agrees to provide ETI with sufficient support and test time to duplicate the problem, and to determine whether the problem is a Reproducible Material Error in the ETI software.

5.6 System Administrator(s). Customer is responsible for providing one or more qualified System Administrators as described in section 6. Calls received by anyone not previously identified as System Administrators are not covered by this Agreement and are therefore subject to hourly fees, and are not subject to minimum Response Time.

5.7 Installation of Upgrades, Enhancements and New Versions. ETI will coordinate the installation of all Upgrades and Enhancements with the Customer.

**Section 6**  
System Administrator Requirements.

6.1 Basic Requirements. Each System Administrator must either complete an ETI system administration training and ETI system data entry and modification course, or must otherwise have sufficient experience as to be able to understand and use ETI software in accordance with the Documentation effectively.

6.2 Additional Knowledge. Each System Administrator must be qualified through training or experience acquired independently of ETI to address, without the aid of ETI, all problems relating to any hardware, software, or operating system other than those which may be provided to Customer by ETI.

6.3 Initial System Administrator(s). The person(s) to be initially trained by ETI to serve as System Administrator(s) shall be no more than five (5) people and should be identified by the Customer prior to the start of training.

6.4 Change in System Administrator(s). Customer may change its System Administrator at any time by giving notice to ETI of the replacement System Administrator(s), provided that such replacement(s) are qualified in accordance with the terms of this Section 6. ETI may require Customer to appoint a new System Administrator if ETI, in its sole discretion, determines that the System Administrator does not meet the qualifications required under this Section 6 or otherwise have the experience or ability to communicate effectively with ETI support personnel.

**Section 7**  
Fee/Payment and Anniversary Date.

7.1 Maintenance and Support Fee. Customer shall be required to pay an annual Software Maintenance Fee with respect to the ETI software currently licensed. If additional Software Modules are added to the ETI software during any annual term of this Agreement, then ETI shall calculate the annual fee for support of such additional Software Modules and Customer shall pay the pro-rated portion of that additional fee for the time period from the date the additional Software Module is added to the ETI software to the end of the initial or then-current renewal term; thereafter the fee for the additional Software Module shall be included in the annual fee.

7.2 Charges for Other Services. For Other Services training courses Customer shall pay such amounts as specified in Exhibit B, if applicable. For installation or data conversion services Customer shall pay the amount specified in the applicable Installation Services Amendment, Data Conversion Services Amendment, or Statement of Work documents. Customer agrees to pay additional charges according to the ETI fee schedule for all work performed outside of coverage hours or for services rendered under Section 4. These charges are applicable for any work performed after hours regardless of cause even if it was reported and/or initiated during Coverage Time. Customer will be required to authorize any work outside of Coverage Time that results in additional charges. In addition, Customer agrees to pay all reasonable expenses incurred in connection with ETI's provision of Other Services, including without limitation, courier fees, copier expenses, costs of reproductions, costs of disposable supplies purchased exclusively for work for Customer, travel expenses (including airfare, rental cars, taxis, lodging, meals, parking and necessary incidentals).

7.3 Payment Terms. The anniversary date for maintenance and support is the date of installation. Annual maintenance is due fifteen days prior to the anniversary date. ETI shall render an invoice for the annual maintenance fee at least thirty (30) days before each anniversary date. Failure to pay any amount due under this Agreement when due shall constitute a breach of this Agreement. All overdue amounts shall accrue interest at the rate of 1.5% per month or the highest interest rate allowed by applicable law. ETI shall be

entitled to reimbursement of all costs incurred in collecting such amounts; including without limitation all court costs and reasonable attorney fees and expenses. ETI also reserves the right to refuse to provide any services under this Agreement if any amounts due under this Agreement remain unpaid for over thirty (30) days after invoice, and no refund shall be due to Customer if these services are so suspended. Additionally, Customer shall be required to pay a reinstatement fee, not to exceed eighteen (18) percent of the annual maintenance fee. If ETI does suspend service under this Agreement, Customer may have service reinstated only upon payment of all overdue invoices, including interest and reinstatement fee.

7.4 Change of Rates. ETI reserves the right to change its Support fees, provided that no such change will be effective until at least 90 days after ETI has given Customer written notice of such change by means of an invoice. ETI rate changes will not exceed 3% on annual basis for the first six (6) years of this Agreement. In addition to the foregoing changes in Support Fees, fee changes will also result from changes in (1) Software prices for new modules, interfaces or functionality that is added on, (2) Increases in the number of modules of a Licensed Program, (3) Increases in the number of users on the system, (4) Changes in the computer hardware or (5) Selection by Customer of different Coverage Hours.

7.5 Taxes. Customer shall be responsible for sales or use taxes, and state or local property or excise taxes associated with Customer's licensing, possession, or use of the ETI software.

### **Section 8** **Termination.**

8.1 This Agreement may be terminated as follows:

- (a) This Agreement shall immediately terminate upon the termination of the License Agreement;
- (b) This Agreement may be terminated by Customer upon the expiration of the then-current term of this Agreement, provided that at least ninety (90) days prior written notice is given to ETI. ETI may terminate this Agreement upon the expiration of the term of this Agreement, provided that at least ninety (90) days prior written notice is given to Customer; or
- (c) This Agreement may be terminated by either party upon thirty (30) days prior written notice if the other party has materially breached the provisions of this Agreement and has not cured such breach within such notice period
- (d) Termination by Customer: If ETI fails to provide the Licensed Software as warranted in accordance with the terms of this Agreement; Customer may at its option terminate this Agreement with ninety (90) days written notice as follows:
  - (i) The termination notice shall provide a detailed description (with examples) of any defects claimed;
  - (ii) ETI shall have thirty (30) days from receipt of said notice to correct any warranty defects in order to satisfy the terms of this Agreement;
  - (iii) At the end of thirty (30) days unless the termination has been revoked in writing by Customer, the Agreement terminates

8.2 Payments upon Termination. Following termination of this Agreement ETI shall immediately invoice Customer for all accrued fees, charges and reimbursable expenses. Customer shall pay the invoiced amounts upon receipt of such invoices; any amounts not paid within thirty (30) days after the date of the invoice shall bear interest until paid at the rate of one and one half percent (1.5%) per month, or the highest interest rate allowed by applicable law, until paid. Termination of this Agreement pursuant to the terms of Section 8 shall not obligate ETI to refund any amount paid by Customer.

8.3 Additional Rights. Termination of this Agreement shall be in addition to, and not in lieu of, any other remedies available to ETI.

8.4 Survival. The rights, obligations, and limitations of Sections 5.2, 8, 9, 10 and 11 shall survive termination of this Agreement.

8.5 License Agreement. Provided that the License Agreement otherwise remains in effect, then upon termination of this Agreement Customer shall be permitted to continue use of the ETI software pursuant to the terms of the License Agreement. If the License Agreement has terminated, Customer shall take such actions with respect to the License Software as required under the License Agreement upon its termination.

### **Section 9** Proprietary Rights.

9.1 To the extent that ETI may provide Customer with any Error Corrections or Enhancements or any other software, including any new software programs or components, or any compilations or derivative works prepared by ETI (collectively, "Vendor Programs"), Customer may (1) install one set of the Vendor Programs in the most current form provided by ETI, in Customer's own facility; (2) use such Vendor Programs in connection with the Licensed Programs, and in a manner consistent with the requirements of the License Agreement, for purposes of serving Customer's internal business needs; and (3) make one copy of the Vendor Programs in machine-readable form for nonproductive backup purposes only. Customer may not use, copy, or modify the Vendor Programs, or any copy, adaptation, transcription, or merged portion thereof, except as expressly authorized by ETI. Upon termination of such License Agreement, Customer shall return or destroy the Vendor Programs, and returning the Vendor Programs in the manner required by the License Agreement shall be sufficient for such purposes.

9.2 The Vendor Programs are and shall remain the sole property of ETI, regardless of whether Customer, its employees, or contractors may have contributed to the conception of such work, joined in the effort of its development, or paid ETI for the use of the work product. Customer shall from time to time take any further action and execute any further instrument, including documents of assignment or acknowledgment that ETI may reasonably request in order to establish and protect its exclusive ownership rights in such works. Customer shall not assert any right, title, or interest in such works, except for the non-exclusive right of use granted to Customer at the time of its delivery or on-site development.

### **Section 10** Disclaimer of warranty and limitation of liability.

10.1 ETI disclaims all warranties either expressed or implied and representations with respect to the licensed program, including its condition, its conformity to any representation or description, the existence of any latent or patent defects, and its merchantability or fitness for a particular use.

10.2 ETI agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability, claims, demands, actions, damages (including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration that arise from willful misconduct related to this Agreement performed by ETI or ETI's agents, employees, subconsultants, subcontractors, or other persons acting on ETI's behalf.

10.3 Customer specifically agrees that in no event shall ETI's cumulative liability for any claims arising in connection with this Agreement exceed THE FOLLOWING AMOUNTS: (1) FOR CLAIMS MADE PURSUANT TO SECTION 10.2 ABOVE, THE TOTAL ACTUAL AMOUNT, AND (2) FOR ALL OTHER CLAIMS, the annual base software maintenance fee for one (1) year paid to ETI by Customer within the last twelve (12) months.

10.4 Customer expressly agrees that in no event shall ETI be liable for any consequential or special damages arising from breach of warranty, breach of contract, negligence or any other legal theory, whether in tort or contract, even if ETI has been advised of the likelihood of such damages occurring, including without limitation, damages from interruption or business, loss of profits or business opportunities, loss of use of software, loss of data, cost of recreating lost data, cost of any substitute software, or losses caused by delay. Termination of this Agreement by ETI pursuant to Section 8 shall not result in liability of ETI to Customer for damage, loss, or expense, and Customer expressly waives such claims.

10.5 No action, whether based on contract, strict liability, or tort, including any action based on negligence, arising out of the performance of services under this Agreement, may be brought by either party more than one (1) year after such cause of action accrued.

## **Section 11** **Miscellaneous.**

11.1 EMS Billing Exports. If the Customer has elected to purchase an optional EMS Billing Export and once the Export is accepted or is in production any changes are not covered under regular support and maintenance. Changes shall be made through a change order or Statement of Work document(s) that would detail the specific changes required and the costs associated with the changes.

11.2 Training and Testing Systems. The testing or training system is provided so the Customer may test and/or train without impact on the live, production system. ETI shall provide support to one (1) additional testing or training system. Support is limited to one (1) system in addition to the live, production system. ETI may, at its sole discretion, provide support to additional systems for additional costs to the Customer.

11.3 Publication (Mobile) Testing and Training Support. ETI does not provide support for testing or training systems that have a publication (mobiles) on the system unless the Customer has elected to purchase a separate support option to cover training system mobiles. If the Customer has purchased the additional support option, ETI will support no more than 12 mobile units. The mobiles shall be dedicated exclusively to the training or testing system. Support is limited to quarterly publication rebuilds for the system.

11.4 Waiver. No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Failure to enforce any of the provisions of this Agreement shall not be construed as a waiver of future rights to enforce the same or other provisions of this Agreement. Further, should ETI elect to provide any services beyond its commitment herein, such provision of services shall not be construed to increase or otherwise change the level of services it is required to provide under this Agreement.

11.5 Assignment. Customer may only assign this Agreement in conjunction with an assignment of the Software License, and pursuant to the assignment terms in the Software License.

11.6 Force Majeure. ETI shall not be liable for any failure or delay in performance of any obligation under this Agreement if such failure or delay is caused by circumstances not directly under the control of ETI, including without limitation, failure resulting from acts of God, acts of public authorities, wars and war measures, strikes, fires, delays of suppliers or carriers, or serious illness of key personnel.

11.7 Governing Law, Adjudication, and Severability. This Agreement is to be governed by, and interpreted in accordance with the laws of the State of California, exclusive of its conflicts-of-law provisions. Customer agrees that any litigation arising out of this Agreement shall have exclusive venue in, and the parties shall submit themselves to the jurisdiction of, the Federal and State courts of Ventura County, California. If any provision of this Agreement shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remainder of this Agreement, but shall be confined in its operation to the provision of this Agreement directly involved in the controversy in which such judgment shall have been rendered, and the invalid or unenforceable provision shall be struck.

11.8 Whole Agreement. Customer acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions. This is the complete and exclusive statement of the Agreement between Customer and ETI, which supersedes any proposal or prior agreement, oral or written, and any other communications relating to maintenance and support of the ETI software. All additions, amendments, or modifications of this Agreement shall be binding upon the parties only if they are in writing and executed by Customer and ETI. Any term or condition on a printed form which shall be sent to ETI by Customer shall have no effect, and shall not modify, add to or subtract from the obligations and rights set forth herein; Customer agrees that all terms on such forms are void.

11.9 Insurance.

(a) ETI shall obtain and maintain during the performance of any services under this Agreement the insurance coverages as specified in Exhibit INS-B, attached hereto and incorporated herein by this reference, issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that ETI obtain and maintain such insurance coverages.

(b) ETI shall, prior to performance of any services, file with the Risk Manager evidence of insurance coverage as specified in Exhibit INS-B. Evidence of insurance coverage shall be forwarded to the Risk Manager, addressed as specified in Exhibit INS-B.

(c) Maintenance of proper insurance coverages by ETI is a material element of this Agreement. ETI's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as set forth below.

CITY OF OXNARD

EMERGENCY TECHNOLOGIES, INC.

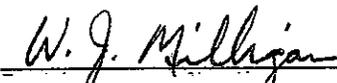
Dr. Thomas E. Holden, Mayor



Kyle Breischafft, President & CEO

APPROVED AS TO CONTENT:

APPROVED AS TO INSURANCE:



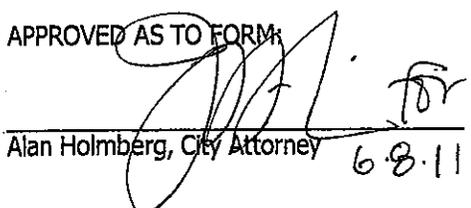
W.J. Milligan, Fire Chief



James Cameron, Risk Manager

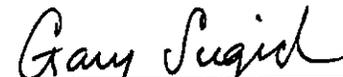
APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Alan Holmberg, City Attorney

for  
6.8.11



Gary Sugich, Project Manager

APPROVED AS TO AMOUNT:

ATTEST:

Edmund F. Sotelo, City Manager

Daniel Martinez, City Clerk



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**Emergency Technologies, Inc.**  
**Major Project**  
**Statement of Work**  
**Exhibit D**

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**City of Oxnard, California**

## COPYRIGHT NOTICE

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Confidential  
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ATTACHMENT 1

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# Document Control

## Revision History

The table below indicates the changes made to this document to date.

Revision Number	Item	Date	Author	Description of Change
1	ETI SOW for Oxnard, CA	06/18/10	Chris Morgan	Initial Draft
2				
3				
4				
5				
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# 1 OVERVIEW

## 1.1 Statement of Work

This project involves the installation, implementation configuration, and related services of ETI Visual Fire™ software (herein referred to as FRMS) for the City of Oxnard, California, the Client.

This Statement of Work (SOW) provides a description of the products, services, and equipment that will be provided during this project. This SOW also outlines the general responsibilities and expectations of all parties involved in the project. Within this document "ETI" refers to Emergency Technologies, Inc., "Client" refers to City of Oxnard.

Acceptance testing criteria will be based upon the Acceptance Test Plans (ATP) for the current production version(s) of the proposed software, modified to include any additional functionality described in this Statement of Work.

Any software, software functionality, services, or work activities not described in this SOW are considered outside the scope of this project. Requests for products or services not described in this SOW will require a change order that is approved by ETI and the Client.

## 1.2 Project Management Definitions

The following project management terms are used in this document. Since these terms may be used differently in other settings, these definitions are provided for clarity.

a) Project Schedule means the schedule providing dates and timeframes for completion of tasks and Deliverables during the course of this Project. The Project Schedule is subject to change at the mutual agreement of ETI and the Client as further discussed in this SOW.

b) Project Management Plan means collectively the Communications Management Plan; Risk Management Plan; and Change Management Plan that provide the criteria for managing those tasks within the Project.

## 1.3 General Client Responsibilities

The Client Project Manager

The Project Manager is involved in the Project beginning with the SOW development and continuing through post Go Live Project completion. The

Project Manager will be an active participant in many of the milestone events through the course of the Project including System Orientation, implementation, and Go Live. The Project Manager will organize a weekly Project status call/meeting with ETI's Project Manager and necessary Project team members. The Client Project Manager will provide ETI with any supporting information or documents.

#### Client System Administrator

The System Administrator will be responsible for working with ETI during the installation and configuration of the project software. This person must, with the assistance of ETI, be capable of managing the configurations of the system to assure that the system does not have any mismatches of system software versions. This person will also provide general support to Client users. This person is typically responsible for system backups.

The Client System Administrator should have the qualifications necessary to function in a project environment and support the following responsibilities:

- Ensures ETI can connect remotely through a VPN or some other means to perform work on the FRMS.
- Collaborates with the ETI Technical Consultant for system-specific training and implementation of backup, recovery, archiving, and general System activities
- Monitors and configures the servers, workstations, and other interface systems
- Is the main point for contact for user questions and problems
- Runs and designs reports as needed
- Troubleshoots system problems
- Maintains and upgrades all system configuration and forms
- Installs system software upgrades
- Serves as liaison for ETI field service personnel

#### Other Tasks:

- Electrical facilities (e.g., outlets, generator and other electrical infrastructure facilities) required for this project, including necessary maintenance.
- Cabling (e.g., power, network, interface and other electrical and data transmission lines) required for this project, including necessary maintenance.
- Network/communications connections (e.g., LAN/WAN, commercial wireless, telephone, VPN, and other voice/data connections), or ongoing network/communications charges associated with installation, operation or support of the proposed system including the establishment and maintenance of security accounts.
- Configuration and/or programming of network routers, switches and bridges - this includes providing information to ETI staff on any firewalls within the overall network that the system will operate and

- necessary port access for the system to operate in accordance with ETI documentation.
- Unless specified as a defined service to be delivered by ETI, the installation, configuration, maintenance (including patch management and upgrades of Microsoft software required by the System).
  - Unless specified as a defined service to be delivered by ETI, the installation of servers into racks and the connection of such servers to network switches.
  - Unless specified as a defined service to be delivered by ETI, the configuration of machine names and IP addresses for servers to be utilized by the System. This includes joining the servers to the network and the assignment of security accounts as specified by ETI documentation.
  - Any hardware and third party software necessary for implementing the system other than the hardware and third party software listed in the ETI price sheet (Deliverables, Price and Payment) for the Contract. This will include workstations for the FRMS, network equipment, performance test software, and the like;
  - Consoles, furniture or fixtures as well as any modifications to install equipment used for Systems or Subsystems specified by the Agreement into existing consoles, furniture, vehicles or existing facilities. Installation of Workstations into consoles, furniture, vehicles or like items, is the responsibility of the Client;
  - Active participation in System Orientation sessions by providing ETI staff with an overview of the Client's current operation and providing information as requested by ETI staff regarding changes to current operations desired by the Client.
  - The provision of code files and data as requested by ETI staff. This information must be provided on a timely basis in order to meet the project timelines. This information will be provided in a format requested by ETI staff, which is typically requested in MS Excel format.
  - The timely review and approval Acceptance Test Procedures (ATP), Integration Documentation, Task Completion Reports (TCR) and/or other project documentation as further defined in this SOW.
  - Active participation in functionality feature review sessions.
  - Final User configuration, post acceptance system updates and on-going code file maintenance of the FRMS portfolio in accordance to the training provided by ETI;
  - Making the appropriate personnel available for scheduled training sessions;
  - Provide a training facility with the required computer and audio-visual equipment for training; and
  - Timely completion of acceptance testing for the FRMS, Interfaces and other Subsystems.
  - Configuration of the FRMS application and supporting 3<sup>rd</sup> Party software on the mobile and desktop computers.

## 1.4 Project Exclusions

Work, software, services, hardware, Systems, Subsystems, product/software modifications or any other deliverables not described in this SOW will not be included in the Project. Changes in scope will only be executed through a mutually agreed upon Change Order.

Interfaces to or data conversions of legacy FRMS data is not within the scope of this project.

## 2 PROJECT DELIVERABLES

### 2.1 Overview of Project Deliverables

During the ETI Delivery System Phase, the ETI system is delivered, configured, and initially tested for correct operation. Interfaces are delivered and configured to operate with the existing systems. Data, specific to site operations, is loaded by key site personnel. Installation of hardware or network connectivity is not within the scope of installation.

Modules included in the scope of this project are:

1. Administrative setup functions; the Visual Fire Desktop
2. NFIRS 5.0 Fire Incident Reporting
3. NWS CAD Access - (Incident Download)
4. NFIRS 5.0 Data Export to the State Fire Marshal's Office
5. EMS ePCR
6. EMS QC Editor
7. EMS Audit Log
8. Training
9. Personnel
10. Shift Scheduling w/ TeleStaff Interface (Telestaff gateway not included)
11. Supply
12. Security
13. Equipment
14. Station Log
15. Fire Investigations
16. Fire Inspections
17. Permits
18. Systems Fire Inspections
19. Fire Pre-Plans (Premise)
20. Hydrants
21. Exposure Log
22. Crystal Viewer for Crystal Reports

23. Crystal Viewer Administrator
24. Chemical List
25. Master Locations
26. Master Names
27. Visual Fire Mobile
28. Mobile NWS CAD Access(Requires Broadband Connectivity back to the server.)

Available options which were not purchased:

1. Account Management Services\*\*\*
2. Custom Modification and Development
3. Custom Data Conversion
4. Full System Audit Log
5. Pre-Plan Popup
6. EMS Fax Communication Server
7. EMS Billing Export
8. EMS State Data Export(NEMSIS)
9. Geo-Validation
10. FireView (Map Analysis)
11. Fire Zone (Diagramming tool)
12. Fire Sketch (Diagramming tool)
13. 5 by 9 Maintenance\*\*
14. Mobile Command (NIMS-ICS)
15. Microsoft Licenses
16. Hardware

#### Initial Phase

The Initial Phase includes the installation of the FRMS (Visual Fire System) for use by the Client. ETI is providing a per seat licensing for their RMS System.

The Initial Phase will prompt ETI professional services to perform requirements capture for workflow and operational functions. This information will be used to establish a baseline software configuration that allows for the workflow across the department. Overall configuration of the FRMS software will be completed concurrently for the entire department. This will ensure that the software configuration can be effectively trained and taken live without significant rework of the software configuration for later Go Lives.

Due to the nature of the FRMS System, phased Go Live may occur through the Go Live of particular RMS modules, such as Visual Fire Mobile, to be used by the Fire/EMS organization with other FRMS modules implemented post Go Live of the initial live use of FRMS.

FRMS will be configured based upon the information captured during the System Orientation and the data provided by the Client. The configuration work performed by the Client is based upon the need to maintain data subject to periodic change and/or that requires local knowledge. The division of responsibilities for The FRMS configuration data will be documented during the project once the ETI and Client project teams have established the FRMS timeline and Go Live modules. The processes, milestones and tasks are described in detail in Section 8 of this SOW. The Client is responsible for procuring and configuring computer hardware and associated Microsoft software as specified, The Client will be responsible for providing and maintaining VPN connectivity as described to allow for installation, support and upgrading of the FRMS.

Standard databases for FRMS will be provided by ETI. These databases (including stored procedures) will be used for the software systems and will not be modified in format by the Client (the addition, deletion, modification of tables, rows, columns or stored procedures).

### **2.1.1 Software Deliverables**

#### **Install Software**

This task identifies the activities involved in the installation of the software at the Client site and configuration for training. The system is checked for correct operation with Client's supplied network settings and configuration.

Tasks:

Please refer to Section 1.3 for a list of tasks

#### **Deliverables**

- 1 Software and Services Options per contract
- 2 Install and configure the FRMS Options on the FRMS Server for the department;
- 3 ETI will help coordinate the software installation of the Client's workstations and MDCs.
- 4 Train Client IT staff on how to setup and configure workstation and MDCs.
- 5 At go-live, ETI will setup and configure a mobile publication on the live production system.
- 6 Train Client IT staff to setup and configure mobile workstations.

### **2.1.2 Modifications to Software Products**

Any Modifications to Software Products that are to be delivered through this Project will be listed in the Agreement. The functional scope of any Modification procured through the Agreement will be defined by a separate Change Order.

Any Modification to the functionality of Standard ETI Software not included in this SOW and the Agreement will follow Change Management Process agreed to between ETI and the Client. Release of all Modifications to ETI's Standard products and interfaces will follow ETI's release cycles.

### **2.1.3 Standard Interface Software**

Standard Interface Software to be delivered through this Project will be identified as software licenses in the Agreement's SOW.

Standard Interface Requirements Documents, IRDs, will be provided to the Client for approval prior to initiation of work for the following interface:

New World Systems CAD Incident Download

## **3 VENDOR PROJECT ROLES AND RESPONSIBILITY**

### **3.1 Overview**

The descriptions of personnel roles noted below provide an overview of typical Project team members. Other personnel may be involved under the direction of ETI Project Managers in order to complete the requirements of the Project.

ETI's commitment to excellent customer service requires structured project management methodologies and quality assurance processes. Through our lessons learned, ETI has identified the following crucial success factors:

- Careful selection of personnel and team members
- Frequent, effective communications via project schedule, statements of work, meeting notes, Acceptance Test Plan and Functional Specifications
- Clearly delineated lines of authority and responsibility
- Strict adherence to time plan
- Managing scope through agreed upon change process
- Timely risk identification, communication, and mitigation
- Adequate and accurate acceptance test planning and execution

In order for a successful project implementation to be realized, the Client will need to provide a single point of contact and a system administrator for the FRMS. The system administrator or IT Staff must have advanced Microsoft OS, network administration and Microsoft SQL Server – database administrator skills. The Client will need to facilitate cooperation with vendors interfacing to the FRMS system, and provide those items requested from ETI to adhere to the project schedule and deliverables as agreed upon in contract negotiations.

### **3.2 ETI Project Manager**

ETI will develop and define a communication plan to include contacts and escalation triggers including response times that both organizations will agree too.

ETI has appointed an ETI Project Manager as the principal ETI contact who will be responsible for implementing the FRMS Project within the framework of the Agreement and this SOW. The Project Manager utilizes a standardized methodology for project implementation, project management, and risk identification and management. ETI's Project Manager is responsible for Project scheduling and management of resources, budget management, identification and management of Project risks, and communication with the Client's Project team. The ETI Project Manager will be responsible for the collaborative coordination of Client resources in an effort to ensure that avoidable Project delays will be minimized.

The Project Manager is involved in the Project beginning with the SOW development and continuing through post Go Live Project completion. The Project Manager will be an active participant in many of the milestone events through the course of the Project including System Orientation, implementation, and Go Live. The Project Manager will organize a bi-weekly, or a mutually agreeable, Project status call/meeting with the Client and necessary Project team members. Additionally, the Project Manager will provide the Client with a written Project status report on a weekly basis, or a mutually agreeable timeframe.

### **3.3 Business Analyst**

The Business Analyst is responsible for the configuration of Visual Fire including the definition of Client system requirements, business rules, configuration data, and demonstration of functionality, acceptance testing and technical support throughout the Project implementation life cycle. As a Project team member, the Business Analyst will provide consultation services to the Client with regard to the configuration and operation of Visual Fire. The Business Analyst will work with the Client's implementation team to perform an analysis of dispatch, operational, and reporting procedures utilized by the Client. The Business Analyst also supports the training services for the area of focus they have been responsible for during the project deployment.

The Business Analyst will be an active participant in many of the milestone events through the course of the Project including System Orientation, Feature Demonstration, and Go Live, and will participate in Project status calls/meetings. The Business Analyst responsibilities may be performed by the ETI Project Manager.

### 3.4 Technical Services Group

Client service functions and technical support for the Client's System during the Project is coordinated by the ETI Project Manager. After Go Live, ETI's Technical Services Group is responsible for providing on-going support for the Client's System as defined in the Agreement and the Software Support Agreement.

## 4 RECOMMENDED CLIENT ROLES AND RESPONSIBILITIES

### 4.1 Overview

In general, the Client's Project team should include staff experienced in the operation and administration of the Client's current public safety technology systems, including Fire Operations, personnel administration, shift management, asset tracking, permit management, training management, and executive data review. These "subject matter experts" need to be engaged through the course of the Project from initiation until live operations, and may be involved in the support and maintenance of the FRMS after Go Live. These recommendations do not speak to specific positions. Rather, this information defines specific responsibilities and estimated time commitment. The Client may elect to create individual positions, combine responsibilities, and/or assign responsibilities within their current organizational structure. The Client needs to periodically assess its staffing needs based on changes in the Client's operational use of this technology.

Input from subject matter experts in all applicable areas is essential to successful implementation of ETI's RMS system. The subject matter expert(s) in each area are the individuals who are knowledgeable about the current operational and technical specifications of the system, the data flow between and among different applications, and any limitations associated with each application.

For Standard and Custom Interfaces, subject matter experts may be from the Client Agency and third party vendors. If the vendors are not ETI subcontractors, the Client will be responsible for engaging them in necessary discussions and documentation of the requirements.

In addition, it is recommended that the Client, early within the implementation process, identify those persons that will be responsible for the ongoing maintenance of the Client's System to include the technical and business processes. There are two key roles that are described below – the FRMS Administrator is responsible for application maintenance SQL Server, network, hardware, file and data back-ups and log management. It is paramount that the Client develops this team during the implementation process so that the Client successfully achieves a degree of self-reliance with the understanding of the FRMS solution in addition to the generalized technical responsibilities.

## 4.2 Project Manager

The Client's Project Manager is the principal Client contact who will manage a team of Client Project personnel. The Client's Project Manager manages and coordinates Client's resources responsible for completing assigned Project tasks and activities.

Activities include facilitating Project Schedules and meetings, review and approval of Task Completion Reports ("TCRs"), Project management plans, applicable configuration sheets, and IRDs, approval of the ATP, and management of the Client's staff.

## 4.3 System Administrator

The Client's FRMS Administrator(s) is the individual primarily responsible for managing the FRMS software to ensure efficient operation. This individual is the primary RMS configuration point of contact representing the Client.

Activities include ETI software setup, assignment and management of ETI Software modular security, managing database size and file back-up, evaluation of version updates, reporting, prioritization and management of support issues.

The System Administrator will be responsible for working with ETI during the installation and configuration of the project software. This person must, with the assistance of ETI, be capable of managing the configurations of the system to assure that the system does not have any mismatches of system software versions. This person will also provide general support to Client users. This person is typically responsible for system back-ups.

The Client System Administrator should have the qualifications necessary to function in a project environment and support the following responsibilities:

- Collaborates with the ETI Technical Consultant for system-specific training and implementation of backup, recovery, archiving, and general System activities
- Monitors and configures the servers, workstations, and other interface systems
- Is the main point for contact for user questions and problems
- Runs and designs reports as needed
- Troubleshoots system problems
- Maintains and upgrades all system configuration and forms
- Installs system software upgrades (Windows, SQL, etc.)
- Serves as liaison for ETI field service personnel

## 4.4 Client Data Administrator

The Client's Data Administrator is primarily responsible for the configuration of SQL Server and maintaining the Project data in an SQL Server

environment. This person should be experienced with SQL Server systems and all of the details surrounding the care and maintenance of this data. Specifically, this person will monitor database characteristics such as performance, fragmentation, size, etc.

The Data Administrator should have the following qualifications:

- SQL Server Database knowledge and experience.
- Experience in administering database operations in a distributed Client-server environment.
- Experience with the Windows 2000/XP Operating System.
- Experience in Microsoft Products such as Access, Excel, PowerPoint, etc.
- Experience in SQL Operations related to SQL Server, and similar other databases.
- Experience in executing standard and Ad Hoc reports with report writing tools such as Access, Crystal, and Excel.

#### **4.5 Client's System Trainer**

The Client's System Trainer becomes a system expert for on-going training of new personnel and refresher training as needed. Each supported group should have a designated trainer to support on-going user needs.

The Client's System Trainer should have the following qualifications:

- Demonstrated skills in establishing and maintaining a positive classroom environment.
- Working knowledge of the general operations of the relevant Fire Service operational areas.
- Working knowledge of the ETI Visual Fire applications, interfaces and related systems.
- Ability to verify/reproduce workflows resulting from trouble reports.
- Ability to document and report system anomalies.
- Ability to develop and implement scenarios and labs for classroom instruction.

#### **4.6 Client Subject Matter Experts (SME)**

Collect and verify all Fire Service-specific data (such as personnel, apparatus, equipment, and codes) for the system in conformance with information and direction provided by ETI. SMEs must be authorized to represent their respective functional areas and make decisions about how the different modules should be configured.

SMEs can also be involved in the training of the end users and serve as front line support during the Maintenance phase of the project. Because these people have been chosen to speak for their peers, they should be well respected and noted experts in their fields.

## 4.7 Client Network Administrator

The Network Administrator will be primarily responsible for the configuration of the network and coordinating the system's inclusion in the corporate network environment. This person should be experienced with network equipment and all of the details surrounding the care and maintenance of a Windows 2000/XP-based network.

The Network Administrator should have the following qualifications:

- Experience in Windows 2003 Server Network Administration.
- Experience in configuring and monitoring hubs, switches, modems, and routers.
- Experience in using network management software.
- Experience in Windows operations.
- Experience in diagnosing software and cable related problems.

# 5 VENDOR PROJECT IMPLEMENTATION PROCESS

## 5.1 Overview

## 5.2 Project Implementation Approach

The following implementation approach will be utilized by ETI.

- a) Project scope and requirements will be defined at the Project's inception. The early phases of the Project are used to identify and validate Client's optional settings and operational processes that are configured into the software. This information needs to effectively represent the expectations of the Client and System Users.
- b) ETI will participate with the Client's Project Manager to identify risks associated with ETI's products and services and develop a plan to mitigate those risks.
- c) ETI will use structured phases for the deployment of this project. Documentation of the Project Schedule and task management ensures that all parties are operating based upon a mutually accepted set of expectations for deliverables or upcoming tasks.
- d) The establishment of defined processes for Client communication (contact persons and reporting methods) provides a basis for effective and regular communication. This supports the previously noted processes necessary for successful project outcome.
- e) This includes a formal scope of work, purchase order and managing their services and payments.

- f) ETI will coordinate invoicing resulting from execution of Task Completion Reports.
- g) Project change orders are utilized to document changes in project scope. This documentation of project changes allows ETI, and the Client to avoid misunderstandings and to establish traceability with other key Project phases.

## **6 PROJECT INITIATION**

### **6.1 Overview**

Project Initiation consists of those processes that define the scope of the Project. The process of contract negotiations is included as a part of the Project Initiation process and sets the foundation for the expectations of the parties regarding the Project.

During the initiation process there will be a minimal exchange of technical information between the Client and ETI while the negotiating teams determine the Project scope, define Deliverables and Milestone, and finalize pricing and payment terms. The goal of the initiation phase is to finalize the contracting terms and conditions and finalize the SOW for the Project. The following activities are completed as part of the contract negotiation process:

### **6.2 Responsibilities for this process**

#### **6.2.1 ETI Responsibilities**

- a) Assign a Project Manager to the Project to participate in Initiation phase activities.
- b) Produce required documentation to support Initiation activities.
- c) Finalize and execute the Agreement with the Client.
- d) Review and Finalize the SOW with the Client.
- e) Develop and submit invoice to Client for payment due at execution of the Agreement.

#### **6.2.2 Client Responsibilities**

- a) Assign a Project Manager for the Project to participate in Initiation phase activities.

- b) Review and comment on ETI provided documentation to support Initiation activities.
- c) Finalize and approve the Agreement with ETI.
- d) Finalize and approve the SOW with ETI.

## **7 PROJECT PLANNING**

### **7.1 Overview**

Project Planning requires the gathering of Project specific information required to produce a Project Management Plan. In short, Project Planning consists of those processes designated to establish when and how the Project will be implemented while further elaborating on Project Deliverables. Most of the information exchange between the Client and ETI during this process is at a high level and consists of interaction between both Project Managers and a small group of Project stake-holders.

Major Deliverables for the Project Planning phase are the specific Project Management Plans, and a baseline Project Schedule.

Each project must be managed in a manner that will allow for adjusting the Project Management Plan and Project Schedule to address the circumstances that affect a project during Project Execution. As a result of these changes during the Project life cycle, Project Planning will overlap each subsequent process during the Project. Typically, Project Planning tasks will decrease in frequency as checkpoints are successfully completed and as the Project nears Go Live and Project completion.

Note: The Project Schedule is a living document, subject to change during the course of the Project due to several factors such as change in Project scope, scheduling conflicts, delay in approving project documents, resource availability, etc. All changes to the Project Schedule will be discussed between all parties and will be incorporated within a published schedule upon approval from the Client.

### **Responsibilities for this process**

#### **7.1.1 ETI Responsibilities**

- a) Identify and engage the ETI Project team responsible for carrying out ETI's Project Execution.
- b) In collaboration with the Client, develop a comprehensive Project Management Plan (which includes the Communication Management Plan, Risk Management Plan, and Change Management Plan).

- c) Contribute to the baseline Project Schedule for ETI's products and services.
- d) Participate in the Project Kick-Off meeting at the Client's site.

### **7.1.2 Client Responsibilities**

- a) Identify and engage the Client's Project team.
- b) Review and comment on the Project Management Plan and the Project Schedule.
- c) Ensure participation of the Client's Project team in the Project Kick-Off meeting.
- d) Approve the TCRs for the Project Management Plan within 5 business days or a mutually agreed timeline between ETI and the Client.

## **7.2 Project Kickoff**

During planning phase, the ETI Project Manager will hold a Kick-Off meeting with the Client's Project team. ETI will participate in the project Kick-Off meeting representing ETI's FRMS products and services. During the Kick-Off meeting, the ETI Project Manager will provide an overview of the following:

- a) Description of Project Deliverables.
- b) Roles and responsibilities of Project team members.
- c) Review the preliminary Project Schedule including projected Project milestones and checkpoints.
- d) Describe the work that has been either completed, in progress or due to begin within the immediate future.
- e) Review any project related questions from the Client's team.

## **Responsibilities related to this function**

### **7.2.1 ETI Responsibilities**

- a) Participate in the preparation of the agenda
- b) Provide an overview of ETI's execution process and deliverables
- c) Distribute any documents 1 week prior to Kick-off meeting that the Client should review in advance of the Kick-Off meeting.
- d) Participate in the Kick-Off Meeting

### **7.2.2 Client Responsibilities**

- a) Working with ETI's Project Manager, schedule a Kick-Off meeting date convenient for both parties.
- b) Schedule the appropriate personnel from the Client's team to attend. This should also include key stakeholders that may not participate routinely in Project operations, but who have authority or responsibility over the Project.
- c) Provide adequate accommodations to include adequate seating and audio-visual equipment including a projector, screen, and whiteboard.

## 8 PROJECT EXECUTION

### 8.1 Overview

Project Execution focuses on the development and delivery of Project Deliverables. Processes will be iterative and consist of: 1) A review of Deliverable documents; 2) Development, configuration, installation and testing of software and other product deliverables, and 3) Delivery of Project related services such as training. Each Deliverable has a closing process which consists of a specific task completion report. These Deliverable closing processes are independent from the closing process of the Project.

### 8.2 General Responsibilities for this process

#### 8.2.1 ETI Responsibilities

- a) Participate with Client in gathering system requirements through the System Orientation session(s).
- b) Configure FRMS software to comply with the requirements of the SOW and functional requirements matrix.
- c) Develop, install and configure all Interfaces listed in the Agreement, consistent with the SOW and the functional requirements matrix.
- d) Perform system data set generation and prepare for data imports required by FRMS as required by the SOW.
- e) Install and configure the FRMS software licensed under the Agreement.
- f) Provide a Client Acceptance Test Plan for the software Systems and Subsystems licensed under the Agreement.
- g) Conduct initial testing for the software Systems and Interfaces licensed under the Agreement.

- h) With the assistance of the Client's team, conduct Acceptance Testing utilizing the ETI Client Acceptance Test Plan (ATP) for the software Systems and Subsystems licensed under the Agreement.
- i) Conduct training sessions as specified in the Agreement and in accordance with this scope of work.
  - 1. Address any post-training issues as documented in the applicable Journal.
- j) Plan and execute System and Subsystem Go Live.
  - 1. Address post Go Live issues as documented in the applicable Journal.

## **8.2.2 Client Responsibilities**

- a) Configure the network, implement security and support access.
- b) Install any equipment or Third Party Software or systems needed to implement ETI FRMS.
- c) Assist ETI with configuration and installation work, including inserting media and restarting applicable computers.
- d) Attend and actively participate in applicable System Orientations session(s).
- e) Collaborate on, review, and approve Acceptance Test Procedure documents for applicable Systems
- f) Conduct Acceptance Testing utilizing approved Acceptance Test Procedure (ATP) in coordination with ETI.
- g) Sign off on successful completion of ATPs through the written approval of a Task Completion Report.
- h) Prepare the training facility for Systems.
- i) Ensure attendance of designated personnel in applicable training classes.
- j) Manage and implement all Client provided software classes as needed to prepare Client staff for the operational use of ETI Fire RMS system.
- k) Participate in planning and execution of Go Live.
- l) Document post Go Live issues.

## **8.3 System Orientation**

### **8.3.1 Overview**

The ETI RMS System Orientation will be conducted and led by ETI's Business Analyst or Project Manager. A key element of this meeting is to gather the configuration data and understand the data flow to be used in the build process. The reference material will be provided in advance to the Client to assist in gathering the required data.

Note: The Client's provision of configuration information is an early Project checkpoint. This information is needed for building the system and incomplete, inaccurate or delayed information can have a cascading effect on the Project Schedule.

### **8.3.2 ETI FRMS Orientation Meeting**

#### **8.3.3 ETI Responsibilities**

- a) Schedule the FRMS Orientation meeting in accordance with the Client's availability and the Project Schedule.
- b) Prepare and distribute the meeting agendas and documents for Client review or completion to all required attendees a week prior to each meeting.
- c) Conduct the meetings based on the distributed agenda.
- d) Document the Client's requirements and configuration specifications resulting from the System Orientation discussions for applicable Systems.
- e) Send the configuration documents and, if custom work is necessary, requirements documents to the Client for review and approval.
- f) Document and assign owners and due dates to any action items and track all action items to closure.
- g) Use the configuration documents and supporting material to configure the FRMS.
- h) Document any gaps between FRMS standard functionality and functionality required by the Agreement for further analysis and discussion and/or facilitate the change management process. Client requested changes beyond the scope of the Agreement will be evaluated during this phase to determine the potential impact on the Project Schedule and any additional project charges to be paid by the Client.

#### **8.3.4 Client Responsibilities**

- a) Provide adequate facilities to comfortably hold the system orientation to include a computer projector, whiteboards and adequate seating. Two projectors are preferred.
- b) Ensure participation of key stakeholders and decision-makers, by agency, in the System Orientation process.
  1. Provide subject matter experts that can articulate the agency structure as it will relate to the RMS workflow.
  2. Provide subject matter experts that can explain the data flow. These persons should have the ability to make decisions regarding any changes that may arise through the use of the new RMS system.

3. Provide subject matter experts that are versed with the ability to gather and provide the data elements to ETI.
  4. Provide subject matter experts that will be the "in house" FRMS super users, as well as a person or persons that will be responsible for the ongoing maintenance of the FRMS workflows and forms, and configuration (FRMS Administrator).
- c) Ensure that requested information such as data elements necessary to begin the FRMS system build are provided within a timely manner.
  - d) Participate in the Change Management Process for any requested software changes.
  - e) Sign the appropriate Task Completion Reports.

#### **8.4 FRMS Code File Entry**

After completion of FRMS Orientation and receiving requested data from the Client, and based on Client's workflow and operational processes, the assigned ETI Business Analyst will perform the initial code file building process. The Client will be actively involved at each step of the process through periodic reviews including onsite, conference calls and remote sessions.

A code file review is completed prior to ETI initiating the code file entry process. The review is initiated via conference call once the Client has submitted the requested code file information. The code file review validates the accuracy and completeness of the information and ensures that there is a mutual understanding of how the information is to be used within FRMS.

**Note:** The Client's provision of code file information is an early Project checkpoint. Incomplete, inaccurate or delayed code file information can have a cascading effect upon the Project Schedule.

The purpose of this task is to configure the FRMS to a level that will allow for an accurate collection of data for NFIRS reporting, case management and other statistical reporting. Specially trained ETI personnel will participate in the code file building process. Some code files that require local knowledge of the geography and the physical location of business and high-risk areas of the community (such as premise, and caution note/hazard information) cannot be built by ETI. The Client maybe required to enter or complete some code files such as users and employee information. The responsibility for building and maintenance of the System code files will transfer to the Client upon completion of ATP.

This task identifies the activities required by the Client to complete the population of the code tables and other customizable parameters. There is an

initial emphasis to get data identified and loaded, but ongoing data maintenance is normal.

## **Responsibilities for this task**

### **8.4.1 ETI Responsibilities**

- a) Monitor and evaluate code file submitted by the Client.
- b) Conduct a conference call to validate the completeness and applicability of Client submitted Code File information.
- c) Perform a preliminary code file build of the Client's ETI FRMS.
- d) Facilitate updates to the System module building sheet.

### **8.4.2 Client Responsibilities**

- a) Provide timely updates to the System module building sheet as requested.
- b) Participate in the code file validation conference call/meeting.
- c) Continue building the System code files after ATP.

## **8.5 Legacy Data Conversion**

There is no legacy FRMS data conversion within the Scope of this project.

## **8.6 Hardware/OS Configuration**

ETI is not providing any hardware or network configuration.

## **8.7 System Installation**

An ETI Engineer will configure the Production FRMS application and database system servers at the Client system site with all required software and associated configuration data. Prior to ETI installation and configuration, the Client will perform all necessary site preparation. Subsystem servers such as mobile and other applicable systems will be configured and software installed by ETI at the Client System Site for initial installation.

## **Responsibilities related to this task**

### **8.7.1 ETI Responsibilities**

- a) Install and configure the ETI's FRMS application, database, and interfaces on the designated Test/Training and Production servers.
- b) Review server configuration and implementation by Client meets ETI's setup standards.

## 8.7.2 Client Responsibilities

- a) Complete the site preparation
- b) Install server hardware, operating system, and database configurations.
- c) Establish network connectivity and security access.

## 8.8 Acceptance Test Procedures

### 8.8.1 Overview

ETI will execute a process for the Acceptance testing of the FRMS Subsystem implemented by ETI. Acceptance Test Procedures (ATPs) will be conducted during the Project implementation process prior to final Acceptance. The purpose of the ATP is to test specific functionality and to formally document that system meets the required functionality according to the Agreement between the Client and ETI.

Once this Acceptance Testing Process has been successfully completed, the system will be considered accepted. A TCR will be submitted that affirms that the system has passed this test.

ETI will repeat any failed ATP test following the correction of any issues which has caused the test to fail. Any critical failures (Severity 1 and 2 issues as defined by the Maintenance and Support Agreement) will be addressed promptly so that testing can resume. Critical Failures will not take any longer than thirty (30) days to be resolved. Non-Critical failures will be addressed in the next release.

This task identifies the activities involved in the execution of the Acceptance Test Plan and the subsequent acceptance of the system. With required data loaded, the system is tested using a mutually agreed upon systematic test plan. This testing completes the acceptance of the system or subsystem being tested and paves the way for going live with commercial use of the system or components. The tests exercised by ETI in other Phases are preliminary in nature but ensure that the system is functional and ready for final Client testing.

## Responsibilities related to this task

### 8.8.2 ETI Responsibilities

- a) Develop ATP documents reflecting Client-specific functionality (The documented functionality in the ETI FRMS Configuration Documents from System Orientation are the basis of Client-specific acceptance criteria)
- b) Assist the Client in conducting Acceptance Testing in accordance with ATP documents

- c) Document ATP findings and results
- d) Resolve ATP issues and re-run tests as required
- e) Obtain Client's acceptance of the system functionality
- f) Upon completion of ATP, provide a TCR to the Client, to be signed and returned to ETI

### **8.8.3 Client Responsibilities**

- a) Participate in the ATP
- b) Collaborate, review and approve ATP
- c) Assist ETI in documenting ATP findings and results
- d) Upon successful completion of ATP, approve and return the TCR to ETI

## **8.9 Training**

### **8.9.1 Training Environment**

This task represents the activities the Client must accomplish in order to create an appropriate training environment. It includes such considerations as locating acceptable space in which to conduct training, establishing the necessary network communications to interconnect the various servers and workstations, providing necessary facilities for students, etc.

### **8.9.2 Execute Training Plan**

This task identifies the activities involved in the execution of the Training Plan. This Training Plan identifies the curriculum that has been agreed to by ETI and Client. All of the training within this category is included within the scope of the contract (i.e. Training Matrix). This activity also includes consultation to assist the Client in determining the software configuration needed to best implement the Client business rules.

### **8.9.3 FRMS Training Courses**

#### **8.9.3.1 System Administration: Technical (SA-1) 1 days**

This course covers the basic setup that must be done on all systems. This includes department setup, personnel, equipment, NFIRS 5.0, security, code file setup, Crystal Viewer, SQL Server administration and backup. The course consists of lecture and workshop and each student should have access to a PC during the workshop.

### **8.9.3.2 System Administration: Subject Matter Expert (SME) (SA-2) 1 day**

SA-2 is focused on setup and configuration for fire preplans, fire inspections, EMS, EMS QC, permits, hydrants, training, supply and data exporting. The course consists of lecture and workshop and each student should have access to a PC during the workshop. SA-1 is a prerequisite.

### **8.9.3.3 System Administration: Schedule Administration (SA-3) ½ day**

This course covers the setup and configuration of the Shift Scheduler. The course consists of lecture and workshop and each student should have access to a PC during the workshop. SA-1 is a prerequisite and the personnel and apparatus data must be all entered prior to this class.

### **8.9.3.4 System Administration: Audit/Review (SA-4) up to 1 day**

The topics covered are:

- System Audit
- Security
- Supervisor review for NFIRS
- NFIRS Exporting to the State FMO
- Backups

The class consists of lecture and workshop. It is recommended that each student have a PC.

### **8.9.3.5 System Administration: Mobile (SA-5) 2 days**

This course is intended for the administrators of the Mobile FRMS and provides instruction on installing Visual Fire and Mobile Data Manager and configuring them for use in mobile mode as well as techniques and utilities for monitoring the continued operation of Mobile Data Manager. The topics covered are administrative overview of the installation procedures of SQL Personnel, Fire Records Management Software and Mobile Data Manager Software on mobile devices. Also covered is the physical installation by agency personnel of the items listed above.

### **8.9.3.6 User Training: Operations/ NFIRS (UT-1) 1.5 days**

The topics covered are:

- NFIRS
- Exposure

The class consists of lecture and workshop. It is recommended that each student have a PC. This class is intended for line companies.

### **8.9.3.7 User Training: Personnel Administration (UT-2) 1 day**

The topics covered are:

- Training
- Personnel

The class consists of lecture and workshop. It is recommended that each student have a PC. This class is intended for administrative personnel.

## 9.1.2 Client Responsibilities

- a) Review the written report of Project status and provide feedback within five (5) business days or mutually agreed timeframe in order to ensure that the documentation is correct.
- b) Participate in Project status meetings.
- c) Ensure participation of personnel in tasks and meetings.
- d) Ensure timely review and approval of the TCRs, IRDs, and all other Project Deliverables and documents within mutually agreed upon project timelines.

## 9.2 Change Management Process

### Responsibilities related to this function

#### 9.2.1 ETI Responsibilities

- a) Change Orders will be prepared for submission to the Project Manager when material changes to the SOW are required. Depending on the scope of the change request, a separate SOW may be required.

#### 9.2.2 Client Responsibilities

- a) When applicable, the Client will identify the services or deliverables that will be subject to a Change Order, per the Agreement between all parties.
- b) When applicable, the Client will identify changes to features or functionality related to FRMS and relevant and interfaces to and from ETI FRMS that will require a change order. This process may also include participation with the requirements process.
- c) Client will approve and process Change Orders in a timely manner.

## 9.3 Document Review

In the course of the Project, ETI will deliver various documents to the Client for review. In order to ensure compliance with the Project Implementation Schedule, the Client is responsible to provide feedback within the agreed upon project timeline in order to ensure that the documentation is correct. If the document cannot be approved within the specified time frame, the Client will provide a written notification to ETI regarding extending the time. Lack of approval by the Client within the defined timelines will not result in default or automatic approval of the documents. However, any delays in approval process may have a cascading impact on project timelines.

### **9.3.1 Controlling**

- a) Project Schedule as agreed upon by the Client and ETI.
- b) Project Status Reports – Issued on a weekly basis, or a mutually agreeable timeframe.
- c) Change Orders – For Project additions and/or deletions to the scope of the Project.
- d) Sales Orders – For Client additions outside of the scope of the Project and to be enacted as a separate Project, requiring a separate SOW.

### **9.3.2 Requirements**

- a) Interface Document – provides the interface details between an ETI system and a third party system.

### **9.3.3 Testing**

- a) Acceptance Test Procedure documents – This document describes the testing steps to be utilized for software product Systems and Subsystems.

### **Responsibilities related to this function**

#### **9.3.4 ETI Responsibility**

- a) Distribute the documents to the Client Project Manager.
- b) Coordinate the process to consolidate comments and edit documents.
- c) Receive document signoff from the Client

#### **9.3.5 Client Responsibilities**

- a) Review the documents presented and provide the appropriate information back to ETI within mutually agreed upon timelines documented in project plans for configuration sheets, Change Orders and/or Sales Orders.
- b) Review the documents presented and provide the appropriate information back to ETI within mutually agreed upon timelines documented in project plans for requirements documents defined above. Unanticipated changes to the Project Schedule may warrant a shortened turn around.

## 10 PROJECT CLOSURE

### 10.1 Overview

Project Closure includes the steps to close the Project and transition the Client to Support and Client Services. Project Closure also includes the execution of any remaining deliverables that the Client has chosen to have delivered post Go Live.

During Project Closure the remaining Project related administrative tasks are completed by ETI and the Client. Project documentation is archived and the Project is officially handed over to the ETI Client Account Manager and the Technical Support Department.

#### Responsibilities related to this task

##### 10.1.1 ETI Responsibilities

- a) Transition to Technical Support
- b) Provide continued support based on terms of Agreement

##### 10.1.2 Client and Prime Responsibilities

- a) Provide approval of Project TCRs within five (5) business days or as mutually agreed upon.

### 10.2 System Acceptance

Final System Acceptance will occur in accordance with the terms of the Agreement.

#### Responsibilities related to this task

##### 10.2.1 ETI Responsibilities

- a) Provide support to the Client

##### 10.2.2 Client Responsibilities

- a) Report issues if and when they develop in a timely manner agreed upon by both parties.
- b) Sign the final acceptance TCR upon completion of the performance period

### **10.3 Transition to Support**

As each module Goes Live, there will be a transition period where the Client moves from the implementation team to the support team. This transition will change the Client's primary point of contact from the Project Manager to the Technical Support Department for modules that are live in a production environment. The Project Manager will remain involved in the overall project until all modules are live. The Project Manager will remain in the communication distribution with any support issues reported during the implementation phase.

#### **Responsibilities related to this task**

##### **10.3.1 ETI Responsibilities**

- a) Orient the Client to the technical support process

##### **10.3.2 Client Responsibilities**

- a) Participation with the support orientation. Persons that should participate include supervisory staff or those who may be responsible for reporting system issues in a timely manner.
- b) Review and Sign the TCR for this task

### **10.4 Project Closure**

Upon System Acceptance the ETI Project Manager will prepare a final report that details the activities of the Go Live / System Acceptance detailing the activities completed, the state of the system, and any issues uncovered during the System Acceptance period. If required, a resolution plan will be established that details any remaining issues.

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