

PROPHOENIX SOFTWARE LICENSE AND SUPPORT AGREEMENT

This SOFTWARE LICENSE AND SUPPORT AGREEMENT ("Agreement") is entered into by and between Chenosa Systems Corporation, a New Jersey corporation doing business as "ProPhoenix," with its principal place of business at 502 Pleasant Valley Avenue, Moorestown, NJ 08057 ("ProPhoenix"), and the City of North Port, Florida, a municipal corporation, on behalf of the North Port Police Department, with its principal place of business at 4980 City Hall Blvd North Port, FL 34286 ("Licensee").

In consideration for the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree that ProPhoenix will provide, and Licensee will accept, the software and services described in the proposal described below and attached to this Agreement as Exhibit "A" (the "Proposal") which are incorporated as if set forth fully herein and pursuant to the terms and conditions set forth in this Agreement. This Agreement will commence on the date the last party executes this Agreement.

THE PROPOSAL INCORPORATED INTO THIS AGREEMENT IS AS FOLLOWS:

Title: ProPhoenix Software for Single Jurisdictional CAD, LAW WDA, IA and RMS

Proposal: 19-000152

Date: September 09, 2019

ADDITIONAL TERMS AND LICENSE RESTRICTIONS:

Number of licensed Sites: 1

Number of licensed Concurrent Users for CAD Clients: 7

Payment Terms: All payments to ProPhoenix under the five-year initial term of this Agreement (first payment due upon contract signing with the remaining payments on each anniversary date of the Agreement) will be made by Licensee to SHI International Corp., an authorized partner of ProPhoenix.

SUBSEQUENT ANNUAL SUPPORT AND MAINTENANCE

Support and Maintenance	Annual Support Fee	When Invoiced
Provided by ProPhoenix	\$ 82,667.69	Paid Directly to ProPhoenix on the 5 th Anniversary of Signing
Each year thereafter	Limited to 3% maximum increase over prior year's total.	

Anniversary date begins (1) one year from date shown below

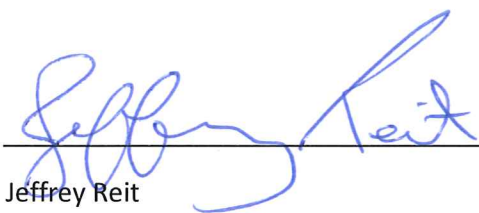
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The parties agree to the terms and conditions of this Software License and Support Agreement as of the date set forth above.

PROPHOENIX CORPORATION:

CUSTOMER: NORTH PORT,FLORIDA

By: _____



Jeffrey Reit

Executive Vice President

By: _____

Peter D. Lear, CPA, CGMA

City Manager

Date: _____ October 04, 2019

Date: _____

ATTEST

Heather Taylor, CMC

Interim City Clerk

APPROVED AS TO FORM AND CORRECTNESS

Amber L. Slayton

City Attorney

TERMS AND CONDITIONS

PART I. SOFTWARE LICENSE TERMS

Capitalized terms (shown in bold at their first use in this Agreement) are defined in Section 14.

1.0 LICENSE AND SOFTWARE USE

1.1 Upon completion of the initial term milestones as listed above, ProPhoenix grants Licensee a non-exclusive license to use the **Software** in object code form only and to use the **Documentation**, as described in this Section 1. The Software is being licensed, not sold, to Licensee by ProPhoenix for use only under the terms of this Agreement, and ProPhoenix reserves all rights not expressly granted to Licensee. ProPhoenix will maintain compliance with CJIS requirements on network security for the life of this Agreement.

1.2 Licensee may:

- A. Install the Software on a single **Server** (or any additional number specified in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto), using only one (1) production database and/or unlimited training databases (unless otherwise specified in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto), to process information internally for the governmental and public safety functions assigned to Licensee by the relevant governmental authorities.
- B. Use the Software subject to the limitations on the number and type of **Concurrent Users** specified in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto.
- C. Make one (1) backup copy of the Software to protect against malfunction or damage to Licensee's computer systems or the media on which the Software is stored.
- D. Physically duplicate the Documentation for archival purposes and for individuals employed by Licensee who are directly responsible for the daily ongoing operation of the Software.
- E. Make an appropriate number of copies of the Software and Documentation for internal training and testing purposes.
- F. Permit Licensee's employees and agents to use the Software and Documentation on Licensee's behalf if they agree in writing to comply with the terms and conditions of Sections 1 and 11 of this Agreement or substantially similar terms; Licensee will remain responsible for the compliance with these terms by third parties using the Software or Documentation with Licensee's permission.

If Licensee desire to use any Software or Documentation for purposes that exceed the restrictions set forth in this Agreement, then an additional license will be required.

1.3 Licensee may not:

- A. Use the Software for any purpose other than for the governmental and public safety functions assigned to

Licensee by the relevant governmental authorities.

- B. License, sell, rent, lend, sublicense or lease the Software or Documentation to, or permit the use of the Software by or for the primary benefit of, any third party.
- C. Modify or attempt to modify the Software or any part of it.
- D. Reverse engineer, decompile or disassemble the Software (or attempt to do so) under any circumstances.
- E. Copy any part of the Software or Documentation unless this Agreement permits it.
- F. Merge, associate or combine, or attempt to merge, associate or combine, the Software with or into any third party software other than the **Third Party Software**.
- G. Remove or destroy any proprietary markings or legends, including copyright and trademark notices, appearing on or contained within any Software or Documentation.
- H. Export or re-export the Software and/or associated documentation in violation of the United States export rules and regulations.

1.4 The Software, documentation and any other materials accompanying this Agreement may be provided by ProPhoenix, at its option, on disk, in read only memory, via an FTP website download, or on any other media or in any other form

1.5 ProPhoenix and its **Third-Party Software Providers** (if any) retain all right, title and interest in the Software and Documentation (including copies made by Licensee), except for those rights expressly granted to Licensee under this Agreement. Licensee acknowledge that ProPhoenix, its Third- Party Software Providers (if any), and their successors and assigns own all proprietary rights in the Software and Documentation, including copyrights and valuable trade secrets.

1.6 The Third-Party Software Providers are beneficiaries of this Agreement and may enforce this Agreement to protect their rights in the Third-Party Software. Licensee acknowledges the right of the Third Party Software Providers in their respective software and related data and materials, including, but not limited to, trademarks and copyrights. Each party to this Agreement expressly indemnifies and holds the other party harmless against all claims, suits and damages by Third Party Software providers arising out of or caused by that party's breach of such Third Party Software license agreements.

1.7 If requested by ProPhoenix, Licensee will submit an annual certification, signed by an officer or authorized representative, specifying the number of users and number and location of all copies of the Software that Licensee has. ProPhoenix may also, once annually, upon reasonable notice and during regular business hours, audit compliance with the license restrictions; to that end, Licensee shall permit ProPhoenix to inspect Licensee's computer system on which Licensee is operating the Software upon forty-eight (48) hours' prior written notice to Licensee.

2.0 **SERVICES.** Licensee is responsible for the installation and configuration of the Software, training, on-site services and other professional services, unless either (a) those services are described in the Proposal or (b)

Licensee has agreed in writing to purchase those professional services from ProPhoenix pursuant to a separate agreement, at ProPhoenix's standard rates in effect at the time. If on-site services (or training anywhere other than at a ProPhoenix facility) are requested, Customer will also reimburse ProPhoenix for its reasonable travel expenses.

PART II. SUPPORT AND MAINTENANCE TERMS

3.0 SOFTWARE SUPPORT

3.1 During the term of any Software Support period in effect, ProPhoenix will provide Licensee with the following Software Support:

A. **Enhancements** and related documentation made generally available at no additional charge to all licensees of ProPhoenix who have purchased support and maintenance. Nothing herein shall be construed as requiring ProPhoenix to provide Enhancements that are generally not available to other clients of ProPhoenix. Any product that is designated by ProPhoenix as a new product will not be included in Software Support. Where ProPhoenix makes a new product available, Licensee may obtain such product from ProPhoenix pursuant to its regular purchasing practices.

B. Telephone, online and e-mail consultation services, for up to one **Support Environment** including problem solving, bug reporting, documentation clarification and technical guidance for the Software. Telephone and e-mail consultations will be available during the hours of 9:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday, exclusive of ProPhoenix holidays, and pager support for **Critical Errors** will be available at all other times.

C. Online support options are available on a 24 hours-a-day, 7 days-a-week basis through the Internet at <http://support.prophoenix.com>. The information available at this website will, at ProPhoenix's option, include, timesaving technical tips, online support, a download library of Enhancements, and Documentation associated with the Software. ProPhoenix will endeavor to post its latest technical notes on this website.

3.2 ProPhoenix will endeavor to respond to Licensee within two (2) hours after contact by Licensee's authorized personnel for any **Critical Errors**, within two (2) business hours for any **High Errors** and within two to three (2-3) business days for all other issues. ProPhoenix will expend commercially reasonable efforts to provide an **Error Correction** designed to solve or bypass a reported **Error**. ProPhoenix will reasonably determine the priority level of Errors and use the following protocol for **Critical or High Errors**: (1) promptly assign specialists to correct the Error on an expedited basis; (2) provide ongoing communication on the status of an Error Correction; and (3) commence efforts to provide a temporary workaround or fix.

3.3 Requests for support outside normal support hours may be made by leaving a voicemail on the ProPhoenix support number, or by sending an email, fax or online request to ProPhoenix. ProPhoenix will use commercially reasonable efforts to respond to requests for Software Support outside of normal hours within eight (8) business hours of its actual receipt and knowledge of such voice, email, fax or online request. After hour support for non-critical issues is provided for an additional cost calculated at ProPhoenix's then-current hourly rate (presently \$125 per hour), per support issue.

3.4 Software Support will be provided remotely via an online

connection. Software Support, including all diagnostic and remedial assistance at Licensee's facilities or other remote locations is not included within the Software Support provided hereunder. Such diagnostic and remedial assistance at Licensee's facilities or other remote locations may be obtained by Licensee by purchasing separate consulting services from ProPhoenix at ProPhoenix's then-existing rates, plus expenses.

4.0 TERMS OF PERFORMANCE OF SOFTWARE SUPPORT SERVICES

4.1 ProPhoenix will be obligated to perform Software Support for the Software only if it remains unmodified, or modified only by ProPhoenix or its agents. Support does not include (i) any work related to providing consultation about or ensuring Software compatibility with application servers, platforms, network configurations, customizations (unless additional Support for customized versions is purchased), web browsers, databases other than those with which the Software is then currently developed to work, or versions of any of the foregoing, (ii) database performance tuning, (iii) Licensee-specific application usage assistance, or (iv) hardware maintenance.

4.2 ProPhoenix will not provide Software Support with respect to problems with the Software or other Product which results from any negligent conduct or misuse by Licensee, its employees or agents, or any other third party, including without limitation, (1) damages caused by accidents, relocation or other movement; (2) neglect; (3) a failure to maintain proper environmental conditions; or (4) a failure to use the Software in accordance with the applicable Documentation.

4.3 Licensee will be responsible for the following:

A. Installing the Software as well as any Enhancements to the Software, unless Licensee has retained ProPhoenix to complete the installation. Where Licensee installs any software or performs any installation activities, it must confirm the compatibility of such software prior to installation, and Licensee always remains responsible for setting up and configuring its secure connections among hardware and software components, at its own expense, to satisfy Licensee's particular security requirements.

B. Keeping its hardware and network in proper working order and running the latest releases of all Third Party Software and other operating software.

C. Maintaining trained designated representatives with a working knowledge of Licensee's programs and system hardware;

D. Promptly notifying ProPhoenix of suspected Errors or needs for service, and upon request, providing to ProPhoenix written documentation with respect to any such Errors. In order to maintain its right to obtain Software Support, including remote troubleshooting and other diagnostic and repair functions, Licensee must provide ProPhoenix with access (via secure Internet connection) to servers running the Software whenever necessary to troubleshoot or fix a specific problem that has arisen and for which assistance has been requested pursuant to this Agreement. Licensee will communicate with ProPhoenix with respect to the Software Support only through its designated representative.

E. All maintenance and support of any network linked to the CPU containing the Software.

4.4 If Software Support is terminated, then (a) support of

all types, including but not limited to Enhancements, operational support and telephone or email support will only be available on a non-priority basis at ProPhoenix's time and material rates as then in effect, and (b) ProPhoenix reserves the right to enter into a new Software Support agreement with Licensee only on re-negotiated terms. In the event that Licensee terminates its Software Support, and Licensee thereafter wishes to reinstate those Software Support (and ProPhoenix agrees to such reinstatement), in addition to the then-existing rate for Software Support, ProPhoenix may require Licensee to pay a Reinstatement Fee equal to thirty-five percent (35%) of such then-existing rate.

4.5 In the event that Licensee has (i) elected to discontinue Support services or (ii) breached Licensee's payment obligations under this Agreement or any other agreement between the parties, ProPhoenix may elect to withhold Software Support, and this action by ProPhoenix would not constitute a breach of this Agreement or a waiver of Licensee's breach.

4.6 A version of the Software will be deemed obsolete one hundred twenty (120) days following receipt by Licensee of a new Enhancement superseding the prior version of the Software. ProPhoenix will not support obsolete versions of the Software, provided, however, that if installation of the new version requires Licensee to pay a new purchase price, Licensee may choose not to purchase the new version and shall receive support through the end of the current Software Support period. In no event, however, shall ProPhoenix be required to support an obsolete version of the Software for more than twelve (12) months from the date of release of an Enhancement superseding the prior version of the Software.

4.7 ProPhoenix relies on its electronic CRM system that Licensee is required to use. ProPhoenix shall keep an accurate event log in the CRM electronic supporting system showing every CRM reported incident of trouble, every action taken by ProPhoenix personnel with respect to each such incident, as well as every report of trouble by customer to the ProPhoenix CRM, including time and resolution. Licensee may at any time during a Software Support period access and view the CRM for complete information relating to the foregoing.

If Licensee does not use the ProPhoenix CRM, Licensee shall keep an accurate event log for any support requests not submitted via the ProPhoenix CRM electronic supporting system showing every incident of trouble, every action taken by Licensee's personnel with respect to each such incident, as well as every report of trouble by Licensee to ProPhoenix, including time of fix and/or resolution. Upon request by ProPhoenix, Licensee shall provide a report to ProPhoenix relating to the foregoing.

4.8 No action by ProPhoenix in the performance of Software Support shall be deemed to expand the scope of Software Support as defined herein.

4.9 Licensee is responsible for the installation and configuration of the Software, training, on-site services and other professional services. See Section 2.0 of this Agreement. Ongoing or follow up training is not considered Support or Maintenance. Additional training will be provided and invoiced at the standard rates in effect at the time.

PART III. PAYMENT AND OTHER GENERAL TERMS

5.0 FEES AND INVOICES

5.1 The payments set forth in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule

hereto are due within forty-five (45) days of invoice. Unless the Software is found defective in a live production environment with a critical issue causing the Software to be down or preventing Customer from performing critical functions of the Software necessary to Customer's operations, after an uncured event of default under section 7.2 of this Agreement, Licensee shall be responsible for the payment of all installation charges, as set forth in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto, as well as all incidental expenses associated with such installation, including travel and materials. If Licensee makes an advance payment for installation or configuration of the Software, training, on-site services or other professional services pursuant to the Proposal, that amount will be credited to fees for such services (and not Software license or maintenance fees) and will become non-refundable if Licensee does not permit ProPhoenix to commence performance of the services within one (1) year of the payment.

5.2 The license fee for additional Sites or Concurrent Users will be billed at the then current rate, unless a different rate is contained in this Agreement. Licensee must notify ProPhoenix no later than thirty (30) days after the number of Sites or Concurrent Users exceeds the contracted number. The license fee for additional Sites and Concurrent Users added will be due and payable within 30 days after the number of Concurrent Users exceeds the contracted number.

5.3 All invoices are due and payable in US dollars upon receipt. Late payment charges will be imposed at the rate of 1.5% per month, including any fees overdue for an increase in the number of Concurrent Users.

5.4 Software Support for any Software Support periods that Licensee agrees to purchase after the initial 12-month Software Support period (to the extent set forth in the Proposal, on the initial pages of this Agreement or in an exhibit, amendment or schedule hereto) will be invoiced annually and will be paid in full upon Licensee's receipt of invoice.

5.5 Software Support Fees for any additional Site or Concurrent Users will be subject to negotiation and will be prorated for any partial year from the date on which the number of Sites or Concurrent Users exceeded the contracted number.

5.6 All fees and charges listed in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto do not include sales, use, value-added and similar taxes, which are Licensee's responsibility. In addition, the costs of Third Party Software may increase outside the control of ProPhoenix; if this occurs, ProPhoenix will invoice Customer for such increase. Without limiting the foregoing, Licensee shall promptly pay to ProPhoenix an amount equal to any such items actually paid or required to be collected or paid by ProPhoenix.

5.7 Notwithstanding anything to the contrary contained herein, in accordance with the Local Government Prompt Payment Act, Florida Statutes Sections 218.70, *et seq.*, Licensee's payments shall be due forty-five (45) days after receipt of invoice. Late payments and interest shall be calculated, paid, and assessed in accordance with the Local Government Prompt Payment Act. ProPhoenix must invoice Licensee for any interest accrued in order to receive the interest payment.

6.0 TERM

Software Support may be terminated by either party after a 12-month Software Support period by providing at least 90 days' written notice before the end of the period. If not terminated, Parts II and III of this Agreement will continue in effect for 12 additional

months, and Licensee will be obligated to pay the fee specified in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto, or if none is specified, ProPhoenix's then-current annual Software Support fee.

7.0 TERMINATION

7.1 This Agreement may be terminated as set forth in this Section 7 (or Section 9 below).

7.2 If either party defaults in the performance of any material obligations under this Agreement, and such default is not corrected within forty-five (45) days after receipt of written notification of the default from the non-defaulting party, then the non-defaulting party may terminate this Agreement (or, if applicable, individual Software license(s)) immediately upon delivery of the written notice of termination to the defaulting party.

The following, without limitation, shall constitute material events of default under this Section 7.2:

- A. any failure by Licensee to make payment in full when due; or
- B. any failure by ProPhoenix to provide any products or services to Licensee which it is required to provide pursuant to the terms of this or any associated agreement between these parties.

7.3 ProPhoenix may terminate this Agreement and any license granted under Part I immediately if Licensee materially violate Section 1 or 11 of this Agreement.

7.4 This Agreement and license granted under Part I shall terminate, immediately and without notice, if Licensee: (a) files in any court pursuant to any statute of the United States or any individual state, a petition in insolvency or for the appointment of a receiver or trustee of Licensee or of Licensee's assets; (b) proposes a written agreement for the composition or extension of Licensee's debts; (c) is served with an involuntary petition against Licensee, filed in any insolvency proceeding, and such petition shall not be dismissed within 60 days after the filing thereof; (d) proposes or becomes a party to any dissolution or liquidation; or (e) makes an assignment for the benefit of creditors.

7.5 Except as otherwise required by Florida Statutes Chapter 119, within one month after the date of termination of this Agreement and/or license granted under Part I, Licensee will return to ProPhoenix or destroy (at ProPhoenix's option) the original and all copies, in whole or in part as then remaining, in any form, of all Software, Documentation and other **Confidential Information** that are the subject of such termination, and an officer of Licensee will certify to the foregoing in writing delivered to ProPhoenix.

7.6 Licensee will pay all charges required under this Agreement incurred prior to the date of termination.

7.7 Non-Appropriations Provision: The parties acknowledge and agree that the obligations of the Licensee to fulfill financial obligations of any kind pursuant to any and all provisions of this Agreement, or any subsequent agreement entered into pursuant to this Agreement or referenced herein to which the Licensee is a party, are subject to the provisions of Florida Statutes Section 166.241, as amended, regardless of whether a particular obligation has been expressly so conditioned. Since funds are appropriated annually by the City Commission on a fiscal year basis, the Licensee's legal liability for the payment of any costs will not arise unless and until appropriations for such costs are approved for the applicable fiscal

year by the City Commission (nor will such liability arise if, a request for such appropriations is excluded from the budget approved by the City Commission). Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of the Licensee will have any personal liability in connection with the breach of the provisions of this Section or in the event of a default by the Licensee under this Section. This Agreement does not constitute an indebtedness of the Licensee nor an obligation for which the Licensee is obligated to levy or pledge any form of taxation or for which the Licensee has levied or pledged any form of taxation.

8.0 ASSIGNMENT

8.1 Without the prior written consent of ProPhoenix, Licensee's rights to any Software and Documentation under this Agreement may not be assigned, sublicensed, or otherwise transferred, voluntarily or otherwise, by Licensee.

8.2 Without Licensee's prior written consent, ProPhoenix's obligations under this Agreement may not be assigned or otherwise transferred, voluntarily or otherwise, except in connection with the sale of its business by merger, stock sale or transfer of a substantial portion of its assets.

9.0 WARRANTY AND INDEMNITY

9.1 ProPhoenix warrants that the Software will operate in substantial conformity with the Documentation for ninety (90) days after the date of Delivery of the relevant Software to Licensee. Licensee's exclusive remedy and ProPhoenix's sole liability under this warranty will be for ProPhoenix to attempt through reasonable efforts to correct any material failure of any such copies of the Software to perform as warranted, if such failure is reported to ProPhoenix within the warranty period and Licensee, at ProPhoenix's request, will make reasonable efforts to provide ProPhoenix with sufficient information (which may include access to such copies of the Software on Licensee's computer system by ProPhoenix personnel) to reproduce the defect in question. This warranty does not apply to the Software or any Third Party Software that has been altered or modified in any way by Licensee or someone other than ProPhoenix or its authorized agents.

9.2 ProPhoenix warrants that the Software, when used within the scope of this Agreement, does not infringe any United States patent, copyright or trade secret. ProPhoenix will defend at its expense any action brought against Licensee to the extent based on a claim that the Software, when used within the scope of this Agreement, infringes a U.S. patent, copyright or trade secret. ProPhoenix will pay any costs and damages finally awarded against Licensee in such action that are attributable to such claim, provided that Licensee promptly notifies ProPhoenix in writing of the claim, allows ProPhoenix to control the defense, provides ProPhoenix with the information and assistance necessary for the defense and/or settlement of the claim, and does not agree to any settlement without ProPhoenix's prior written consent. Should the Software become, or in ProPhoenix's opinion be likely to become, the subject of any claim of infringement, ProPhoenix may at its option (i) procure for Licensee the right to continue using the Software, (ii) replace or modify the Software so as to make it non-infringing, or, if (i) and (ii) are not commercially reasonable, (iii) terminate the license granted hereunder and refund the remainder of the amounts paid for such license, using straight-line depreciation based on a five (5)-year useful life. ProPhoenix will have no liability for any claim of infringement based upon (i) use of other than the latest unmodified release of the Software available to Licensee if such infringement would have been avoided by the use of such release, (ii) use or combination of the Software with other programs or data if such

infringement would not have occurred without such use or combination, or (iii) use of the Software after receiving notice from a third party, or having reason to believe, that the Software infringes a patent, copyright or trade secret right of a third party unless prompt written notice thereof is given to ProPhoenix. The forgoing states the exclusive remedy of Licensee and ProPhoenix's entire liability with respect to infringement of patents, copyrights, trade secrets or other proprietary rights.

10.0 LIMITATIONS

10.1 OTHER THAN THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT, PROPHOENIX NEITHER MAKES NOR GRANTS ANY WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS OR IMPLIED. PROPHOENIX EXPRESSLY EXCLUDES ALL IMPLIED WARRANTIES, REPRESENTATIONS AND CONDITIONS, INCLUDING SPECIFICALLY ANY AND ALL IMPLIED WARRANTIES, REPRESENTATIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, ACCURACY, QUIET ENJOYMENT OR FITNESS FOR ANY PURPOSE, PARTICULAR, SPECIFIC OR OTHERWISE. PROPHOENIX DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE.

10.2 EXCEPT FOR ANY MATERIAL VIOLATION OF SECTION 9.2 OR SECTION 11, LICENSEE'S SOLE AND EXCLUSIVE REMEDY FOR ANY DAMAGE OR LOSS IN ANY WAY CONNECTED WITH THE SOFTWARE, THIS AGREEMENT, SOFTWARE SUPPORT OR ANY OTHER MATERIAL, INFORMATION OR SERVICES FURNISHED BY PROPHOENIX HEREUNDER, WHETHER OR NOT CAUSED BY PROPHOENIX'S BREACH OF WARRANTY, NEGLIGENCE OR ANY BREACH OF ANY OTHER DUTY, SHALL BE, AT PROPHOENIX'S OPTION, REPLACEMENT OF THE SOFTWARE, DOCUMENTATION OR ENHANCEMENTS, REPERFORMANCE OF THE SOFTWARE SUPPORT OR SERVICES, OR RETURN OR CREDIT OF THE APPROPRIATE PORTION OF ANY AMOUNTS RECEIVED BY PROPHOENIX FROM LICENSEE. IN NO EVENT SHALL PROPHOENIX'S LIABILITY EXCEED THE AMOUNTS RECEIVED BY PROPHOENIX FOR THE SOFTWARE AND DOCUMENTATION OR FOR SOFTWARE SUPPORT OR OTHER SERVICES UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING LICENSEE'S CLAIM FOR RECOVERY, EVEN IF PROPHOENIX IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR INSTANCES OF INTENTIONAL VIOLATION OF THE OTHER PARTY'S CONFIDENTIALITY OR INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES HEREUNDER, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF USE OR THE LOSS OF DATA OR INFORMATION OF ANY KIND, HOWEVER CAUSED, OR ANY LIABILITY TO END-USERS OR TO THIRD PARTIES (EXCEPT AS SET FORTH IN SECTION 9.2), INCLUDING WITHOUT LIMITATION LOSS OF PROPERTY, PERSONAL INJURY OR LOSS OF LIFE. THE LIMITED WARRANTY AND LIMITED LIABILITY ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN PROPHOENIX AND LICENSEE. PROPHOENIX WOULD NOT BE ABLE TO PROVIDE THE SOFTWARE WITHOUT SUCH LIMITATIONS. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO THE LICENSEE. PROPHOENIX HAS NO LIABILITY TO LICENSEE UNDER THIS AGREEMENT FOR

ANY CLAIM BASED UPON LICENSEE'S USE, COMBINATION OR OPERATION OF THE SOFTWARE WITH ANY SOFTWARE NOT SUPPLIED BY PROPHOENIX, OR BASED UPON ALTERATION OF SOFTWARE BY LICENSEE OR ANYONE OTHER THAN A PROPHOENIX-AUTHORIZED REPRESENTATIVE. **NOTHING IN THIS AGREEMENT SHALL BE DEEMED TO AFFECT THE RIGHTS, PRIVILEGES, AND IMMUNITIES OF THE LICENSEE AS SET FORTH IN FLORIDA STATUTES SECTION 768.28. THE TERMS OF THIS SECTION SURVIVE THE TERMINATION OF THIS AGREEMENT.**

11.0 CONFIDENTIALITY

11.1 Each party agrees to treat as confidential and not to disclose, publish, release, transfer or otherwise make available to third parties (except as provided in this Agreement or required by law) any information that the other designates as confidential or proprietary ("Confidential Information"). ProPhoenix's Confidential Information includes, without limitation, its technology, processes, specifications, developments and software programs (including the Software and Documentation), whether or not designated as Confidential Information. In addition, any Third Party Software shall be included as Confidential Information, whether or not designated as Confidential Information. This Section 11 does not negate or supersede the terms of any other confidentiality agreement between Licensee and ProPhoenix. Neither party may disclose the financial terms of this Agreement to any third party other than its counsel or accountants or as required by law.

11.2 Unless otherwise agreed in advance and in writing, in the event that Licensee or any employee or agent of Licensee suggests any improvements or modifications to the Software, Licensee acknowledges and agrees that, whether such improvements and/or modifications are implemented by ProPhoenix in whole or part, it assigns all right, title and interest, including all copyrights, patents, trade secrets, and all other intellectual property rights, in any such suggestions, improvements and modifications to ProPhoenix without payment or compensation of any kind, and that it will execute any reasonable documentation requested by ProPhoenix to memorialize such assignment. Licensee further acknowledges and agrees that any audio or visual recording or broadcast of ProPhoenix training sessions, for any purpose is prohibited without express written consent from ProPhoenix. To the extent permitted by law, Licensee agrees to take all reasonable precautions, including those that may be reasonably requested by ProPhoenix, to protect its Confidential Information.

11.3 ProPhoenix agrees that all records and data entered into the database or imported from previously-used computer systems operated by Licensee are and shall remain the sole property of Licensee. Licensee shall not provide, and ProPhoenix shall not, without Licensee's written consent, copy or use such records except insofar as is necessary to carry out work on behalf of or for Licensee or as otherwise pursuant to this Agreement.

11.4 Any use or attempted use of the Software or disclosure of Confidential Information in violation of the restrictions of this Section 11 is a material breach of this Agreement that will cause irreparable harm, entitling the violated party to injunctive relief in addition to all legal remedies. The obligations set forth in this Section 11 shall survive the termination of this Agreement for any reason for a period of two (2) years; provided, however, that such obligations shall not be deemed to survive only to the extent such information: (i) was a matter of public knowledge or available in published literature at the time ProPhoenix communicated this to Licensee; (ii) becomes a matter of public knowledge or available in published literature through no fault of Licensee subsequent to the time of communication thereof to Licensee; (iii) was in Licensee's possession free of any obligation of confidence at the

time of the ProPhoenix communication thereof to Licensee; (iv) was rightfully communicated by a third party to Licensee free of any obligation of confidence subsequent to the time of the ProPhoenix communication thereof to Licensee; (v) was developed by officers, employees or agents of, or consultants to Licensee independently of and without reference to the Software or associated materials or documentation; or (vi) as otherwise required by law.

12.0 GENERAL

12.1 This Agreement constitutes the entire understanding between the parties with respect to its subject matter and supersedes any and all other prior understandings, statements, warranties, representations and agreements, oral or written, relating to them, except that the terms of any earlier nondisclosure or confidentiality agreement shall remain in full force and effect. Licensee is not relying on any representations about the Software or any future releases of the Software other than the Documentation, unless such representations are attached in writing to this Agreement. Any amendment to this Agreement must be in writing and signed by both parties. Printed or standard terms on any order form submitted by Licensee shall not apply if, and to the extent that, they are inconsistent with this Agreement. This Agreement may be executed in multiple counterparts, which may be exchanged via electronic facsimile machines or electronic signature devices.

12.2 The laws of the State of Florida govern the rights, obligations, and remedies of the parties under this Agreement. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida and the United States District Court for the Middle District of Florida.

12.3 Except for actions initiated by either party to this Agreement for injunctive relief to enforce its rights pursuant to Section 11 above or, at the election of the party seeking collection, for the collection of any payments due in the normal course of business, any dispute or claim arising in connection with this Agreement will be adjudicated in the appropriate courts located in the State of Florida. It is the expressed desire of both parties, however, that a good faith effort be made to resolve all disputes prior to the resort to judicial proceedings. Accordingly, it is agreed that any dispute arising under this Agreement, including without limitation, any dispute regarding the operation of the Software, or payments due hereunder, shall be expressed to the other party in a writing that describes each dispute in detail and includes documentation sufficient to evidence the nature of the dispute. The writing shall be delivered to the other party at the address set forth herein. The party receiving the dispute shall respond in writing within thirty (30) days and shall provide documentation supporting its response. Following such delivery and response, the parties shall engage in direct, good faith negotiations for the following thirty (30) days in an effort to resolve all disputes. If the parties are unable to reach an agreement, and in the absence of a written agreement to extend the negotiation period, either party may seek judicial relief. The existence of a dispute shall not, however, be cause for either party to avoid any obligation under this Agreement or any associated agreement, including without limitation, any payment or support obligation.

12.4 Licensee will comply with, and at all times cooperate promptly with ProPhoenix to enable ProPhoenix to comply with, the provisions of the United States Export Administration Act, War Powers Act, or other law or Executive Order relating to control of exports or transfer of technology, and the regulations of the United States Departments of State, Commerce and Defense relating to

them (in present form or as they may be amended in the future). In particular, but without limitation, the Software may not be exported or re-exported (a) into (or to a national or resident of) any U.S. embargoed countries (currently Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria), or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the Software, Licensee represents and warrants that Licensee is not located in, under the control of, or a national or resident of any such country or on any such list.

12.5 Notices delivered under the terms of this Agreement will be in writing and sent by prepaid certified mail, return receipt requested, or by a nationally recognized overnight courier service to the respective addresses of the parties set forth in the recitals and signature page to this Agreement. In the case of ProPhoenix, such notices will be directed to the attention of the President; and, in Licensee's case, such notices will be directed to the attention of the individual named above executing this Agreement on Licensee's behalf. Notices will be effective on the date received.

12.6 No term or provision of this Agreement will be deemed waived and no breach of this Agreement will be deemed consented to or excused, unless such waiver, consent or excuse will be expressed in writing and signed by the party claimed to have so waived, consented or excused such term or provision.

12.7 The application to this Agreement of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly excluded.

12.8 After expiration or termination of this Agreement, all provisions relating to payment shall survive until completion of required payments. In addition, all provisions regarding scope of the license granted in Part I, audit, indemnification, warranties, liability and limits thereon, assignment and confidentiality or protection of proprietary rights and trade secrets, shall survive indefinitely.

12.9 No failure or omission by either party to carry out or observe any of the Terms or Conditions of this Agreement shall give rise to any claim against that party or be deemed to be a breach of this Agreement if such failure or omission arises, without limitation, due to act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of any government authority or third party, industrial disputes, fire, lightning, explosion, inclement weather, or other causes beyond the control of either party.

12.10 ELECTRONIC SOFTWARE DELIVERY. With respect to all the Software licensed by Licensee hereunder, all Software updates delivered under ProPhoenix's Support obligations under this Agreement or any programs or modules licensed by Licensee in the future, ProPhoenix shall deliver such Software, Enhancements, programs or modules via electronic software delivery over a secure VPN connection established between ProPhoenix and Licensee ("ESD"). ProPhoenix shall use commercially reasonable efforts to secure all file transfers via ESD. Licensee acknowledges that, despite such efforts by ProPhoenix to effect a secure file transfer, including using a non-public server and transferring by appointment only, there remains some level of risk of invasive activity by unknown third parties.

12.11 Public Records Law: In accordance with Florida Statutes Section 119.0701, ProPhoenix shall comply with all public records laws, and shall specifically:

1. Keep and maintain public records required by the Licensee to perform the service.

- a. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).
 - b. "Public records" means and includes those items specified in Florida Statutes Section 119.011(12), as amended from time to time, and currently defined as: All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the Licensee. ProPhoenix's records under this Agreement include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, e-mails and all other documentation generated during this Agreement.
2. Upon request from the Licensee's custodian of public records, provide the Licensee, at no cost, with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for by law. All records kept electronically must be provided to the Licensee, upon request from the Licensee's custodian of public records, in a format that is compatible with the information technology systems of the Licensee.
 3. Ensure that records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, if ProPhoenix does not transfer the records to Licensee following completion of the Agreement, for the time period specified in General Records Schedule GS1-SL for State and Local Government Agencies.
 4. Upon completion of the Agreement, transfer, at no cost, to the Licensee all public records in ProPhoenix's possession or keep and maintain public records required by the Licensee to perform the service. If ProPhoenix keeps and maintains public records upon the completion of the Agreement, ProPhoenix shall meet all applicable requirements for retaining public records.
 5. IF PROPHOENIX HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CUSTODIAN OF PUBLIC RECORDS, 4970 CITY HALL BOULEVARD, NORTH PORT, FLORIDA 34286, (941) 429-7056 OR HOTLINE (941) 429-7270; E-MAIL: publicrecordsrequest@cityofnorthport.com.

12.12 Nondiscrimination: The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family or religious status in administration of

its programs, activities or services. ProPhoenix shall not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

12.13 Binding Effect/Counterparts: By the signatures affixed hereto, the parties intend to be bound by the terms and conditions hereof. This Agreement is binding upon and shall inure to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns. It may be signed in counterparts.

12.14 No Agency: Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the parties, it being understood and agreed that no provision contained herein, or any acts of the parties shall be deemed to create any relationship between them other than that as detailed herein.

12.15 Severability: Should any provision of this Agreement be decided by the courts to be illegal, invalid, or conflict with any law, the validity of the remaining portions or provisions of this Agreement shall not be affected thereby.

12.16 Headings: The descriptive titles appearing in each respective paragraph thereof are for convenience only and are not a part of this Agreement and do not affect its construction.

12.17 Scrutinized Companies:

- A. As required by Florida Statutes Section 287.135(5), for contracts of \$1,000,000.00 or less, when submitting a bid or proposal, and prior to entering into a contract with the City, every person or entity shall certify on a form provide by the City, that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Florida Statutes Section 215.4725, and that it is not engaged in a boycott of Israel.
- B. As required by Florida Statutes Section 287.135(5), for contracts of \$1,000,000.00 or more, when submitting a bid or proposal, and prior to entering into a contract with the City, every person or entity shall certify on a form provided by the City, that all of the following are true:
 1. It is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Florida Statutes Section 215.4725, and that it is not engaged in a boycott of Israel; and
 2. It is not on the Scrutinized Companies with Activities in Sudan list or the Scrutinized Companies with Activities in Iran Petroleum Energy Sector list, created pursuant to Florida Statutes Section 215.473; and
 3. It is not engaged in business operations in Cuba or Syria.
- C. PENALTY:
 1. If a false certification is submitted or the person or entity has been placed on one of the above-noted Lists of Scrutinized Companies or has engaged in business operations in Cuba or Syria, the person or entity will be in breach of the Agreement terms and the City may terminate the Agreement.

2. A person or entity that has been found to have provided a false certification may be subject to a civil penalty equal to the greater of \$2 million or twice the amount of the Agreement, plus all reasonable attorney's fees and costs, including any costs for investigations that led to the finding of the false certification; and
3. A person or entity that has been found to have provided a false certification shall be ineligible to bid on any contract with the City for three (3) years after the date the City determined that a false certification has been submitted.

13.0 SOURCE CODE ESCROW OPTION

13.1 If desired by Licensee, ProPhoenix will deposit the **Source Code** for the Software with a certified third party escrow agent. The certified third party escrow agent will be selected and paid by Licensee, subject to ProPhoenix's approval, where such approval will not be unreasonably withheld. Licensee will provide ProPhoenix with any documents necessary to establish the escrow agreement. The purpose of the source code escrow is to provide for retention, administration and controlled access and release of the deposit materials to Licensee under certain conditions listed below (the "Escrow Release Events"). The Escrow Release Events shall consist of the following:

- A. If ProPhoenix or a successor that assumes its obligations under this Agreement ceases to transact business; or
- B. If ProPhoenix or a successor that assumes its obligations under this Agreement ceases to provide support for the Software as required by this Agreement and does not offer to Licensee another software product to perform the same or similar functions as the Software.
- C. If ProPhoenix triggers any of the termination events described in Section 7.4.

13.2. In the event of a release of the Source Code to Licensee, Licensee shall have the limited right and license to use, copy and modify the Source Code solely for the purposes of maintenance and support of the software for Licensee's internal use only. Such license shall be non-exclusive and non-transferable. Licensee agrees that the Source Code delivered under this Section is subject to the confidentiality restrictions recited elsewhere in this Agreement. Notwithstanding any terms to the contrary, Licensee may disclose the Source Code to consultants and agents for the sole purpose of supporting and maintaining the Software, provided such consultants and agents

agree to be bound by the confidentiality restrictions which are applicable to Licensee hereunder.

13.3. In addition, ProPhoenix will, at Licensee's sole expense, deposit the Source Code with an escrow agent pursuant to an escrow agreement between ProPhoenix and escrow agent, a copy of which will be provided to Licensee at Licensee's request, and ProPhoenix shall maintain such escrow, and update the Source Code, for the period that Licensee purchases Software Support. The escrow agreement shall require release of the source code to Licensee solely upon the occurrence of the Escrow Release Events. Licensee will be responsible for the full expense associated with facilitating the Source Code deposit and establishing the escrow relationship. Licensee acknowledges that the Source Code is a valuable commodity that cannot be transported through mail delivery. Licensee may select a provider to facilitate secure delivery of the Source Code, subject to ProPhoenix's approval. Additionally, no later than Thirty (30) days

after the execution of this Agreement, Licensee shall be added as a beneficiary to the escrow agreement. Licensee shall use its reasonable efforts to promptly provide the escrow agent with executed documents as may be required of Licensee pursuant to the escrow agreement. Licensee shall be responsible for payment of all annual fees related to the escrow agreement and Licensee shall be responsible for payment of the fees applicable to technical verification of the Source Code. ProPhoenix and Licensee desire the escrow agreement to be supplementary to this Agreement, pursuant to 11 U.S.C., § 365(n) (Bankruptcy; executory contracts and unexpired leases).

14.0 DEFINITIONS. For purposes of this Agreement, the following terms shall be defined as follows:

"CAD Client" means a single computer terminal at a licensed Site, which may be used by one Concurrent User at a time but may be used by several Concurrent Users at different times.

"Concurrent User" means any individual user using or having access to the Software at a single point in time.

"Confidential Information" is defined in Section 11.

"Critical Error" means an Error that causes the Software production system to go down or prevents Licensee from working in the Software.

"Delivery" occurs when ProPhoenix has first delivered the Software and Documentation on CD-ROM to a common carrier, by ESD (electronic delivery), or personally by an authorized employee or agent of ProPhoenix at Licensee's address set forth above.

"Designated Representatives" shall mean Licensee's employee who is trained and continues to keep updated with the ongoing product details in the Software and capable of providing support to their users.

"Documentation" means the user guide and technical guide related to the Software, any related support material specified in an exhibit, addendum or schedule, and the functionality described at the ProPhoenix website at www.prophoenix.com, as may be modified from time to time by ProPhoenix as permitted by this Agreement. Documentation may, at the option of ProPhoenix, be provided in paper or electronic form.

"Enhancements" are new releases and versions, error corrections, minor updates and modifications of the Software.

"Error" means a failure of the Software to conform to the specifications therefor as set forth in the Documentation resulting in the inability to use or a considerable restriction in use of the Software.

"Error Correction" means either a software modification or addition that, when made or added to the Software, corrects the Error, or a procedure or routine that, when observed in the regular operation of the Software, eliminates the practical adverse effect of the Error on Licensee.

"Escrow Release Event" is defined in Section 13.

"High Error" means an Error which represents a failure of expected functionality that causes serious degradation to Licensee's use of the Software production system.

"Maintenance Release" means a subsequent version of the Software that includes Error Corrections and/or Enhancements.

"Server" means a single CPU or multi-core server (physical or

virtual). A Server may be located at a different location than the Licensee's permitted Site.

"Site" means a single facility or other physical location at which Licensee's users operate the Software.

"Software" means the Phoenix–Law and Fire CAD, RMS and WDA software modules listed on the initial page(s) of this Agreement (or an exhibit, amendment or schedule hereto), as it may be upgraded, enhanced, and/or modified by ProPhoenix (unless such upgrade is accompanied by a separate license agreement, in which case the terms of that license agreement will govern the Software as upgraded), in machine-readable, object code form only. The Software includes any Third-Party Software products and related documentation listed in the Proposal, on the initial pages of this Agreement, or in an exhibit, amendment or schedule hereto.

"Source Code" means the human-readable version of the Software, comprised of a text listing of commands to be compiled or assembled into an executable computer program, along with any associated developers' notes.

"Support Environment" means up to two (2) Software instances (typically one production instance and one QA instance) at Licensee's site location.

"Third-Party Software" means software of companies other than ProPhoenix that ProPhoenix has licensed to Licensee under this Agreement.

"Third-Party Software Provider" means a company, other than ProPhoenix, that has licensed Third Party Software to ProPhoenix, which ProPhoenix sublicenses to Licensee under this Agreement.



Next Generation Public Safety Software

ProPhoenix Corporation

502 Pleasant Valley Ave,

Moorestown, NJ 08057

Phone: 609-953-6850

Fax: 609-953-5311

Web: www.prophoenix.com

Proposal For: Phoenix CAD, RMS and WDA Mobile Software Exhibit A (OMNIA-SHI)

North Port Police Department

Attention: Captain Michael Baute

4980 City Hall Blvd

North Port, FL 34286

Phone# 941-429-7302

Proposal# 19-000152

Date: 09/09/2019

Valid Until: 11/01/2019

Submitted By:

Jenkins, Frederick W

Phone# 609-953-6850 x1260

E-Mail:

fred.jenkins@prophoenix.com

Dear Captain Michael Baute,

On behalf of ProPhoenix Corporation, we are pleased to present this proposal for various components of the Phoenix Public Safety Solution Suite. The attached proposal details the required software modules and associated support services in order to successfully implement the proposed solution. If hardware is being proposed and/or recommended, please take note of the specific operating requirements outlined in the Proposal Notes and/or Terms section.

Phoenix represents a major "paradigm shift" in the value provided to Public Safety agencies throughout the United States. There are several differentiating benefits realized by an agency when implementing Phoenix Software. Highlights include;

Deep horizontal and vertical integration throughout the entire software suite

Integration of 3rd party tools which are transparent to the end user

A complete, end-to-end, Public Safety lifecycle suite deployable throughout the entire agency

Complete design, development, deployment, and maintenance conducted by ProPhoenix personnel

Fiscal responsibility for both the initial procurement as well as ongoing sustainability

An "all-inclusive" module philosophy within the major application offerings, e.g., CAD, RMS, Mobile, Fire, Corrections

Continual incorporation of the latest in tools and technology to stay ahead of the technology curve

Business Intelligence (B/I) capabilities providing "actionable insight" for enhancing decision making in support of Intelligence Led Policing (ILP) initiatives

Adherence to National information sharing standards, e.g. National Information Exchange Model (NIEM) based of Global Justice Extensible Mark-up Language (GJXML)

The Phoenix Public Safety Software Suite embraces our "i3" design philosophy of "Integrated, Intuitive, Innovative". By implementing these tenets, our goal is to maximize an agency's effectiveness and optimize its efficiency through the use of our software. We are confident in our ability to exceed your operational expectations, and are grateful for the opportunity to compete for, and earn your business. Should you have any questions, please do not hesitate to contact us.

Please have an authorized officer sign below and return a copy to me. Upon execution by both parties, this proposal and its terms and conditions will become a binding agreement.

Acceptance:

By: North Port Police Department

ProPhoenix Corporation

Signature

Date

Signature

Date

Print Name

Title

Print Name

Title

ProPhoenix Corporation ("Company") proposal contains information and data, which are privileged, confidential and/or proprietary to the Company. This information and data is commercially sensitive and/or financial in nature and is not made available for public review. This information is submitted on a confidential basis only in response to a specific customer request. The information contained herein is protected, among other things by the Trade Secrets Act, as codified, and any improper use, distribution, or reproduction is specifically prohibited. No license or right of any kind whatsoever is granted to any third party to use the information contained herein unless a written agreement exists between Company and the third party which desires access to the information. The information contained herein is submitted for purposes of review and evaluation in connection with Company's response to the specific request denoted herein. No other use of the information and data contained herein is permitted without the express written permission of the Company. Under no condition should the information contained herein be provided in any manner whatsoever to any third party without first receiving the express written permission from the Company.



Total Solution Cost:

Final Proposal Amount **Provided by SHI**

**Item Details:**

	Item Name	Qty
<u>Application Software</u>		
CAD-CLI-SGL-P	CAD Client - Single Juris - Police	7
CAD-SER-SGL	CAD Server - Single Juris - Police	1
RMS-CLI-SITEP	RMS Client - Single Juris - Police (Site License)	1
RMS-SER-SGL-POL	RMS Server - Single Juris - Police (Site License)	1
WDA-CLI-POL-SITE	WDA (Mobile) Client - Police (Site License)	1
WDA-SER-POL	WDA (Mobile) Server - Police (Site License)	1
PNX-IA	IA - Phoenix Internal Affairs (IA)-Site License Site License	1
WDA-SER-APP	WDA - PD App Server License for Tablet and Phone	1
CAD-STA-SITEP	CAD Status Client - Police/Sheriff (Site License)	1
<u>Interface</u>		
INT-TRACS-FL	Interface - FL TraCS to RMS Configuration and Setup	1
INT-FL-ELVIS	Interface - Florida ELVIS (Electronic License and Vehicle Information System)	1
INT-E911-II	Interface - E911 Server Phase II Calls are answered at the County PSAP and transferred to NPPD	1
INT-INVIZ-LIVSC	Interface - i3 inVize LiveScan Fingerprint System	1
INT-NAV-LINX	Interface - LInX/D-DEx	1
INT-ESRI-BUNDLE	Interface - ESRI Bundle to Phoenix CAD and RMS	1
INT-FL-NFPN	Interface - NFPN (North Florida Pawn Network)	1
INT-FL-DAVID	Interface - Florida DAVID (Driver and Vehicle Information Database)	1
INT-CJIS	Interface - CJIS	1
INT-KGIS-NET	Interface - Key Global Information Sharing	1
NCI-SER	Interface - NCIC Server TCP/IP	1
NCIC-CLI-SITE	Interface - RMS NCIC Client Site License	1
<u>Citizen Services</u>		
CIT-SUP	Citizen Services (Crime View) - Annual Subscription	1
CIT-SETUP-SJ	Citizen Services - Initiation and Setup - Single Agency	1
<u>Custom Job</u>		
CUS - Reports	Custom Reports Marchman Act, Sarasota County PCA, State of Florida Baker Act, Missing Person Form, DUI PCA Form, NPPD Notice to Appear, Public Record Exemption Request, PC Affidavit, Change of Assignment Letter, Inactive Letter, Initial Assignment Letter, and Fraud Inactivation Letter	12



Installation

HERE-MAP-SET	Installation - HERE Map Setup and Configuration	1
INS-SER-TEST	Installation - Components/Licensing for Test Server	1
INT-IBR-CONFIG	Installation - NIBRS Module Configuration and Set Up	1
PNX-INS	Installation - Phoenix Software	1

Travel

PNX-TRA	On-site Travel, Lodging, M&IE (\$16,000 included in this proposal)	1
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Conversion

CON-OSSI	Data Conversion - SunGard OSSI	1
CON-GC	Populate Geo (Address)	1

Training

TRN-ONS-TTT	Training - On-Site Train the Trainer	10
TRN-GO-LIVE	Training - On-Site Go Live	4
TRN-ONS-SPECIAL	Training - On-Site Specialized Training	4
TRN-POST-LIVE	Training - On-Site Post Go Live	4
TRN-TTT-REFRESH	Training - 6 Month Refresher Training	3
TRN-ADMIN-CONF	Training - Annual Administrator Training	3
Annual Users Conference 2019 - 3 People conference costs only. No other expenses.		

Project Management

PM-GEN	Project Management and Professional Services	1
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3rd Party Software

HERE-MAP-SAAS	HERE Mapping Subscription	140
Cost: \$2,800.00 (\$20.00/item)		

Discount

PNX-DISC	Discount	1
First in State		

FVM

FVM-INSTALLMENT	Future Value of Money - Installment Payment Premium	1
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Optional Items: (Not included as part of the proposal. If any of these items are needed, contact sales).





Terms & Conditions

Application Software

CAD Client - Single Juris - Police

Must meet the hardware requirements and be connected to Phoenix CAD server on a high speed IP LAN. Installation of Microsoft .Net 4.5 as part of the Windows O/S is required.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licensing is required.

CAD Server - Single Juris - Police

The customer is responsible for providing server and client hardware with minimum requirements and be connected to the Phoenix CAD server on a high speed IP LAN. Installation of Microsoft .Net 4.5 as part of the Windows O/S is required.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other hardware and software manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions the appropriate Mapping licensing is required.

CAD installation can be performed onsite or remotely.

CAD Status Client - Police/Sheriff (Site License)

Must meet the hardware requirements and be connected to Phoenix CAD server on a high speed IP LAN. Installation of Microsoft .Net 4.5 as part of the Windows O/S is required.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licensing is required.

IA - Phoenix Internal Affairs (IA)-Site License

ProPhoenix Internal Affairs is a full featured solution designed to support the standards held by most law enforcement agencies. Using the latest Microsoft Technologies, and configured with an independent SQL database that does not allow access outside of an authorized IA user list. Built on the same .NET and browser based technologies as our ProPhoenix suite of products, any authorized user can access this system anytime, anywhere.

o Independent product with no access from regular CAD and RMS users

o Easy to understand User Interface

o Complaint Entry – Anywhere, Anytime

o Case Management

o Effective Notification and Early Warning Systems

o Full Reporting System

o Automated Correspondences and Statistical Reports

o Phoenix Integrated Video Interview Module is compatible with IA (Optional)

Subscription (Cloud) Accounts: Because the IA module does not contain NCIC access, ProPhoenix utilizes the standard Microsoft Azure Cloud service and not the NCIC required Government Cloud Service.



RMS Client - Single Juris - Police (Site License)

Hardware and all the necessary system software along with its installation & configuration are the responsibility of the customer unless otherwise stated. System specifications must meet the minimum requirements.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required.

This site license provides unlimited concurrent client connections to the RMS server for the single site application listed on the proposal. Information on upgrading to a multi-juris site license available upon request.

RMS Server - Single Juris - Police

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required.

WDA (Mobile) Client - Police (Site License)

WDA works with IP based communication link. Customer is required to procure the necessary hardware, software and service to establish the secure TCP/IP communication channel between wireless client and the Phoenix WDA server. ProPhoenix recommends NetMotion Mobility Software. Any GPS device that can be connected via serial port or USB which output's data in NMEA2 format can be used with WDA. WDA will automatically detect the GPS existence with no configuration.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required.

WDA (Mobile) Server - Police

WDA works with IP based communication link. Customer is required to procure the necessary hardware, software and service to establish the secure TCP/IP communication channel between wireless client and the Phoenix WDA server. ProPhoenix recommends NetMotion Mobility Software to satisfy CJIS requirements such as compliance with FIPS 140-2 Encryption Requirements.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required.



WDA - PD App Server License for Tablet and Phone

WDA App works with IP based communication. Customer is required to procure the necessary hardware, software, and service to establish the secure TCP/IP communication channel between wireless client and the Phoenix WDA App server. ProPhoenix recommends NetMotion Mobility Software. If this is an unsecured mobile device CJIS Security Requirements mandate 2 Factor Authentication. ProPhoenix provides 2FA at no additional cost. If needed, contact support for assistance with 2FA.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use third party Map functions, the appropriate Mapping licenses are required. App server supports iPad, Android and Windows Surface Pro

Interface

Interface - CJIS

This is an interface to the state's Criminal Justice Information System enabling automated information sharing in a common format among state, local and federal criminal justice agencies. RMS exports appropriate data to the CJIS data warehouse and provides the ability to query the CJIS data warehouse from within the RMS.

Interface - E911 Server Phase II

Customer is responsible to provide the interface specifications and establish the serial RS232 connection between the Phoenix CAD server and the E911 system. Each E911 position can be associated with a CAD Terminal

- Take call using Latitude/Longitude received from Phase II 911 system. Convert the lat/long to a nearest address location (depending upon Map system ability to reverse geo-code).

- If the 911 system is configured to rebid and any time new update comes, Phoenix will process that information. All CAD, WDA and Status will be refreshed with the new location.

- Call detail will show the current latitude/longitude along with the nearest location

E911 Server Minimum Requirements

- Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

Interface - ESRI Bundle to Phoenix CAD and RMS

- o Auto update new Addresses from ESRI into Phoenix

- o CAD and WDA will use ESRI map in place of a 3rd party mapping product.

- 3. RMS: ESRI map is used any place we show map such as Geo Analysis, AVL Replay, Master name etc)

- 4. RMS: ESRI layers can be pulled into RMS directly from ESRI which avoids duplicate layer creation in Phoenix

Interface - FL TraCS to RMS Configuration and Setup

All the necessary hardware and software required for the TraCS program must be installed by the Customer. When available from the State of Florida, Summons/Citations/Crash/Parking and other transferable data entered via

theTraCS program will be automatically downloaded from the customer created TraCS Tran Folder on the Customer TraCS Server into Phoenix RMS and a Citation /Crash entry

will be created. - An automatic duplicate name check will be performed. If a match is found with the Last Name, First Name, DOB, Race, and Sex, the existing name will be used. If not, a new name will be created.

Interface - Key Global Information Sharing

KGIS.Net interface provides the access to share certain information securely among other Phoenix users without duplicating the data (including index replication). Customer will have to open read-only access to Company KGIS Server. Customer has some options to limit the amount of detail information that can be shared. Data communication is based on GJXML schema.



Interface - LinX/D-DEx

Law Enforcement Information Exchange (LinX) is transforming the way it shares the law enforcement information with its federal, state and local law enforcement partners to exchange of criminal justice information that is complete, accurate, and timely to prevent the crime and systematically improve the investigation and prosecution of criminal activity. This release of the Linx/D-DEx is based on the NIEM Template Requirements document and contains written documentation, sachems, instance documents, style sheet, a mapping spreadsheet, and additional documentation. The Linx/D-DEx will promote a standard for information sharing on a national level for law enforcement and criminal justice entities.

Interface - NCIC Server TCP/IP

New development

NCIC will take a minimum of 3 months to complete the project. Typically, with a customer in a new state development is not started right away. So, even though NCIC takes a minimum of 3 months to complete, that 3-month countdown does not start until the day that we hold the conference call between the State, customer and ProPhoenix.

Customer Responsibilities:

Initiate conference call between State, Customer & ProPhoenix

Determine the customer NCIC/CAD server & State server Nat Map IPs (State IP & CAD IP Map)

NCIC/CAD server should be able to Ping the State IP & Port#. The same way state needs to communicate back to NCIC/CAD Server.

Customer & State need to confirm the IP communication between Customer server and State Server.

Provide transaction query list confirmation to ProPhoenix and to the State

ProPhoenix Development Responsibilities:

NCIC communication channel between state IP & Port# and customer server

Transaction query list (provided by customer as per above) – plate query, DL, name query & III. Transaction query list should contain around 12 to 18 queries.

CAD & RMS need to add necessary UI based on transaction query list and business process such as follow up query based on NCIC response.

Demonstrate to customer if customer is satisfied then notify the state.

State Approval for production

State will pick up the date for review and approval and organize the conference call to the State, customer & ProPhoenix.

State will ask customer to run each query and the state will verify the NCIC response.

If anything goes wrong the State will reschedule.

NCIC Go live to be approved by the state and ProPhoenix does not have any control over this.

Interface - RMS NCIC Client Site License

Phoenix RMS clients have built-in support for NCIC access. Customer is required to configure the terminal to control access and have contracted for the interface.

Minimum system requirements change frequently due to technological improvements by ProPhoenix and other Hardware and Software Manufacturers. Please check with your Sales Representative or Account Manager for the most current requirements.

To use Map functions our 3rd party mapping licensing is required.

Citizen Services

Citizen Services - Initiation and Setup - Single Agency

Citizen Services is a subscription service hosted by ProPhoenix Corp. The minimum term is 1 year which is renewed annually unless cancelled in writing 60 days prior to expiration. {agencyname}.prophoenix.com will be established and hosted by the Company. Citizen Services allows the public to access the website to perform various online reporting functions.

Custom Job



Custom Reports

Development of custom reports generate by RMS. Reports are specific to site requirements.

Installation

Installation - Components/Licensing for Test Server

Setup and Install Test Database on Customer Server. ProPhoenix recommends a test server and test database be used to qualify new releases before moving the new version to the production database.

Installation - NIBRS Module Configuration and Set Up

Requirements for assisting customer with submitting live NIBRS information to the State.

NIBRS Module Mapping of Charge Codes, Review and configuration of CFS Codes, and Configuration of NIBRS functionality in the ProPhoenix applications.

Includes the necessary set up of the connections with the State for successful test submissions, and preparation and testing for live submissions.

No additional servers or hardware are required. This will be installed with the Phoenix Records Management System.

Installation - Phoenix Software

Server Hardware and System Software must be installed, configured, and available before installation can begin.

Customer must provide remote access with full Administrator privilege to the server. Each CAD client PC's should be available on the network with the minimum recommended configuration.

Installation will be done remotely using Remote Desktop access.

Optional on-site installation requests will require travel and personnel costs that are the responsibility of the customer and will be billed upon completion. Estimates of cost will be provided if on-site installation is desired and will be based on our actual cost for personnel, travel and accommodations. Meals and incidentals will be actual cost not to exceed the IRS per diem.

Contact ProPhoenix to discuss the minimum hardware requirement and various configuration options.

Travel

On-site Travel, Lodging, M&IE

Actual expenses will be billed.

An estimate of expenses is included in the contract price and listed in this proposal. This price is a do not exceed price.

If additional travel is requested, or required, and expenses will, or may exceed this estimate, all expenses exceeding this estimate will be pre-approved by the Customer prior to any travel arrangements.

Conversion

Data Conversion - SunGard OSSI

Customer is responsible to provide the data in ASCII, delimited format, or in SQL format along with its data layout. In addition, Customer must provide code mapping assistance and validate all converted data for accuracy. Company will then work with the Customer and try to convert as much meaningful data that can be brought over to the existing Phoenix modules as possible. Meaningful data is defined as Incident Data, Name Data, Arrest Entry Data, Mug Shots, CAD Data, Citations, and Report Narratives (if possible; TBD after analysis). Any additional data conversion requested must be mutually agreed upon and may be at additional cost and analysis. ProPhoenix does not recommend conversion of warrant data. Property room conversion may be limited, or not possible, due to restrictions on data entry from incumbent vendor.

To ensure an accurate and efficient conversion, Customer must provide a dedicated person knowledgeable with the data contained in each module to work with ProPhoenix on conversion issues and decisions. The person(s) must be able to answer/research questions that arise regarding the conversion of their data. The person(s) will also be responsible for completing code mapping spread sheets and must also validate the data for accuracy.



Populate Geo (Address)

Customer is responsible for providing the required Geo data based on the ProPhoenix data layout in the GEO spreadsheet or pay for the purchase the address only data from online sources.

If Lat/Long information is not provided by customer, Company will populate the Latitude and Longitude for addresses based on the match found in the 3rd party Map applications used by ProPhoenix and will generate a report of all the addresses not found in these programs.

Customer will be required to correct addresses, or manually update the latitude/longitude, for any missing entries. Customer is responsible to verify and update GEO data in the spreadsheets before Company inserts the GEO data.

Training

Training - 6 Month Refresher Training

If travel expenses are not specifically listed as included in this proposal, they will be additional and the responsibility of the customer.

Training - Annual Administrator Training

High level off site administrator training and updates. Training held at a Company location.

Training - On-Site Go Live

Onsite training consists of:

- o 8-hour day including setup and Q&A. – typically using a train-the-trainer approach
- o Customer Provides the training location, workstations and projection equipment for students and instructor
- o Up to 12 students' maximum
- o On any topic the customer chooses based on training agendas developed by ProPhoenix
- o Primary focus of Training for new implementations will focus on Core Modules needed for go-live
- o Recommended agendas are established for project implementation and train-the-trainer sessions
- o Specialized Training for specific topics such Alarms Billing, Evidence Management, Document Management, Fleet Management, etc.
- o Advanced training is for users that are responsible for managing the system and users
- o Onsite Support is treated the same as training and is design the new customer get through the initial go-live and field questions as they come up
- o Post Go-Live training is used to review areas that the customer is having some doubts and to provide training on specialized modules
- o Per Diem and Travel expenses billed to customer unless otherwise specified in the agreement.



Training - On-Site Post Go Live

Onsite training consists of:

- o 8-hour day including setup and Q&A. – typically using a train-the-trainer approach
- o Customer Provides the training location, workstations and projection equipment for students and instructor
- o Up to 12 students' maximum
- o On any topic the customer chooses based on training agendas developed by ProPhoenix
- o Primary focus of Training for new implementations will focus on Core Modules needed for go-live
- o Recommended agendas are established for project implementation and train-the-trainer sessions
- o Specialized Training for specific topics such Alarms Billing, Evidence Management, Document Management, Fleet Management, etc.
- o Advanced training is for users that are responsible for managing the system and users
- o Onsite Support is treated the same as training and is design the new customer get through the initial go-live and field questions as they come up
- o Post Go-Live training is used to review areas that the customer is having some doubts and to provide training on specialized modules
- o Per Diem and Travel expenses billed to customer unless otherwise specified in the agreement.

Training - On-Site Specialized Training

On-Site Specialized Advanced Training. If travel expenses are not listed as included in this proposal they will be additional and the responsibility of the customer.

Training - On-Site Train the Trainer

Onsite training consists of:

- o 8-hour day including setup and Q&A. – typically using a train-the-trainer approach
- o Customer Provides the training location, workstations and projection equipment for students and instructor
- o Up to 12 students maximum
- o On any topic the customer chooses based on training agendas developed by ProPhoenix
- o Primary focus of Training for new implementations will focus on Core Modules needed for go-live
- o Recommended agendas are established for project implementation and train-the-trainer sessions
- o Specialized Training for specific topics such Alarms Billing, Evidence Management, Document Management, Fleet Management, etc.
- o Advanced training is for users that are responsible for managing the system and users
- o Onsite Support is treated the same as training and is design the new customer get through the initial go-live and field questions as they come up
- o Post Go-Live training is used to review areas that the customer is having some doubts and to provide training on specialized modules
- o Per Diem and Travel expenses billed to customer unless otherwise specified in the agreement
- o Provided training is to be held between 8AM and 5PM (later hours may be available at additional cost)

Project Management



Project Management and Professional Services

ProPhoenix has developed a project management methodology based on best practices and on Project Management Institute (PMI) recommendations. All new projects are divided into the following six distinctive project phases.

1. Initiation: Establish initial communication with the customer, set up internal systems, on-site analysis and initiation of the planning stage.
2. Planning: Conduct site visit if applicable, finalize project plan, and prepare internal team.
3. Implementation: Manage and coordinate with installation team to Install and configure software, conduct system administration training (if contracted), and execute a sample data conversion (if contracted)
4. User Training: If any training days purchased, manage train the trainer training, assist end user training, and prepare to go live.
5. Go-Live: Go live, conduct post go-live training, and perform data conversion (if contracted).
6. Closing: Conduct final review and project close-out. At completion, transfer project management to technical support staff.

3rd Party Software

HERE Mapping Subscription

Customer must open access to HERE Map service from the server and all clients. HERE cost is the total number of vehicles assigned to the Police and/or Fire fleet. CAD client and/or RMS access to HERE Map is covered under this umbrella at no additional charge.

HERE License Fee is an annual fee. First fee will be invoiced and subsequent year's license fees will be billed with the annual support. ProPhoenix has no control over HERE map increases and will adjust prices as required by HERE Map.

HERE no longer supports IE9 and users must upgrade to IE10 or higher to properly display HERE Mapping.

HERE map subscription is accessed via the internet and may affect data usage. Check with your provider to see if HERE Map data consumption may increase data plan costs.



Attachment(s)
