

## **Agreement for the Installation of Emergency Services Internet Protocol Network (ESInet), and Next Generation Core Services (NGCS) Requirements**

This Agreement for the Installation of Emergency Services Internet Protocol Network ("ESInet"), and Next Generation Core Services ("NGCS") Requirement (this "Agreement") is entered into as of December 30, 2022 (the "Effective Date"), by and between the Hernando County Board of County Commissioners ("Hernando BOCC"), and NGA 911, LLC, a California limited liability company ("NGA 911"). The Hernando BOCC and NGA 911 are individually referred to herein as a "Party" and are collectively referred to herein as the "Parties").

WITNESSETH: That for and in consideration of the promises and mutual covenants and agreements hereinafter set forth, the Hernando BOCC and NGA 911 hereby agree as follows:

- 1) **Incorporation of Terms of Statement of Work and NGA 911's Response to Hernando BOCC.** The terms and provisions of the Statement of Work (the "Statement of Work:" attached hereto as **Exhibit "B"** and the documents submitted to the Hernando BOCC is hereby incorporated into this Agreement by reference. Collectively, the Agreement and all exhibits and attachments thereto are hereinafter referred to as the "**Contract Documents**".
- 2) **Order of Precedence of Documents.** In the event of a conflict between the terms and provisions of this Agreement, the Statement of Work, and/or the Pricing Documents, the terms of this Agreement shall govern. For the resolution and interpretation of any inconsistencies in the Contract Documents, the precedence of these documents shall be given in the following order:
  - a) This Agreement, including the Exhibit(s), Addendum(s) and Amendment(s) thereto.
  - b) The Pricing, Deliverables and Milestone Documents, attached hereto as Exhibit "A".
  - c) The Statement of Work, Deliverables, Milestone Documents and Project Deployment Plan attached hereto as Exhibit "B".
- 3) **Installation and Services to Be Performed.** During the Term (as hereinafter defined), NGA 911 shall provide the installation and services described.
- 4) **Compensation.** In consideration of the installation and services to be performed by NGA 911, the Hernando BOCC shall pay or transfer to NGA 911 the amounts listed in the Official Solicitation Price Sheet (the "**Compensation**").
- 5) **Payment.** Upon execution by the parties of this Agreement, the Hernando BOCC will pay to NGA 911 the agreed upon Compensation, according to the payment schedule set forth in the Statement of Work, within thirty (30) days after the receipt by the Hernando BOCC of a proper invoice therefore for contract execution.

At such time as NGA 911 delivers in good condition, consistent with the manufacturer's specifications and the requirements of this Agreement, and such delivery to the site has been certified and approved by the Hernando BOCC, payments shall be made for each payment milestone as specified in the Agreement/Statement of Work within thirty (30) days after the receipt of a proper invoice for each payment milestone.

NGA 911 shall submit invoices in triplicate covering work completed. All invoices shall be submitted via the United States Postal Service (USPS) or other agreed upon method. Invoices are subject to approval by the Sheriff's Office. Invoices shall be accompanied by shipping memoranda, if applicable.

An inventory of all items installed or delivered will be conducted by the Hernando BOCC prior to approval of payment, if applicable. All invoices shall reference the associated payment milestone event incorporated by reference into this Agreement. All invoices shall include the following wording and shall be signed by a duly authorized representative of NGA 911: "This invoice is certified to be accurate in all respects. All charges are authorized under this Agreement, and all equipment and/or services invoiced have been delivered in a conforming manner and have not been previously invoiced."

- 6) **Independent Contractor.** In performing services under this Agreement, the relationship between the Hernando BOCC and NGA 911 is that of independent contractor, and the execution of this Agreement by the Parties does not change its independent status.

No term or provision of this Agreement or act of NGA 911 in the performance of this Agreement shall be construed as making NGA 911 the agent, servant, or employee of the Hernando BOCC, or making NGA 911 or any of its employees eligible for the fringe benefits, such as sick or annual leave benefits, retirement, insurance, worker's compensation and unemployment compensation coverages, which the Hernando BOCC provides its employees.

- 7) **Representations, Warranties and Covenants** Each Party represents and warrants that they have the legal right and authority to enter into this Agreement and, in the case of NGA911, has the legal right and authority to perform the installation and services contemplated hereby and that each Parties entry into and performance under this Agreement have not, do not and will not conflict with any other agreement such Party may have, or may have had at the time of such performance, to other person or entity and, if applicable, will not violate its articles of organization, operating agreement, articles of incorporation or other governing documents, as applicable. This Agreement, when executed and delivered by the parties hereto, shall constitute a valid and binding obligation of the parties, enforceable in accordance with its terms, subject to the laws of general application relating to bankruptcy, insolvency, the relief of debtors and national, federal and state securities laws.

8) **Term and Termination**

- a) **Term**: Unless terminated earlier pursuant to the terms of this Agreement, this Agreement shall commence on the date first set forth above and shall terminate automatically five (5) years thereafter unless extended by the Hernando BOCC pursuant to this Agreement (the "Initial Term"). Following the Initial Term, this Agreement shall automatically extend for five (5) consecutive one year terms (each "Renewal Term" and the Initial Term and the Renewal Term being collectively referred to as the "Term") unless terminated as follows:
- b) **Termination for Bankruptcy**. Either Party may terminate this Agreement immediately upon written notice of (i) voluntary petition is commenced by the other Party under the United States Bankruptcy Code, as amended, 11 U.S.C. Section 101 et seq.; (ii) the other party has an involuntary petition commenced against it under the Bankruptcy Code and such petition is not dismissed within 60 days after filing; (iii) the other Party becomes insolvent; or (iv) any substantial portion of the other Party's property becomes subject to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency.
- c) **Non-appropriation**. The contract issued pursuant hereto shall provide that in the event sufficient funds for the performance of the Agreement are not appropriated by the the Hernando BOCC's Board of Commissioners in any fiscal year covered by this contract, this agreement may be terminated by the Hernando BOCC, without penalties, by giving notice to NGA 911 of such facts and the Sheriff's Office intention to terminate its financial obligation.

- 9) **Conflicts of Interest**. It shall be unethical and potentially illegal for any person to offer, or give, or agree to give any the Hernando BOCC employee or former the Hernando BOCC employee, to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with. any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matters pertaining to any program requirement or a contract or subcontract or to any solicitation for proposal.

It shall be unethical and potentially illegal for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor, or higher tier subcontractor under a contract to the prime contractor, or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontractor order.

NGA911 and the Sheriff's Office expressly agree that the terms and provisions of this Agreement are compliant with the language contained in this Section 9.

- 10) **Subcontracting.** NGA 911 shall not assign this Agreement or enter into a subcontract for the installation and services performed under this Agreement without obtaining the prior written approval of the Hernando BOCC. If such subcontracts are approved by the Hernando BOCC, they shall be the section of this Agreement pertaining to "Conflicts of Interest". Notwithstanding any use of approved subcontractors, NGA 911 shall be the prime contractor and shall be responsible for all work performed.
- 11) **Records.** NGA 911 shall maintain documentation for all charges against the Hernando BOCC under this Agreement. The books, records, and documents of NGA 911, insofar as they relate to work performed or money received under this Agreement, shall be maintained for a period of five (5) years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the Hernando BOCC or its duly appointed representatives, which for the avoidance of doubt, shall be exclusively borne by the Hernando BOCC. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- 12) **Right of Audit and Presentation of Records.** The Hernando BOCC may, at its sole cost and expense, at reasonable times and no more than once per calendar year, inspect the books, records, and documents of NGA 911 relating to performance under this Agreement. The Hernando BOCC shall have the right to audit the books, records, and documents of NGA 911 as they relate to the Services under the following conditions:
- a) If the Agreement is terminated for any reason in accordance with the provisions of this Agreement in order to arrive at equitable termination costs;
  - b) In the event of a disagreement between NGA 911 and the Hernando BOCC on the amount due to NGA 911 under any terms of this Agreement;
  - c) To check or substantiate any amounts invoiced or paid that are required to reflect the costs of Services or NGA 911's efficiency or effectiveness under the Agreement; and/or
  - d) If it becomes necessary to determine the Hernando BOCC's rights and NGA 911's contractual obligations under the Agreement or to ascertain facts relative to any claim NGA 911 that may result in a charge against the Hernando BOCC.

These provisions for an audit shall give the Hernando BOCC, or its duly appointed representative, unlimited reasonable access during normal working hours to NGA 911's books, records, and documents under this Agreement and the conditions stated above.

NGA 911, from the effective date of final payment or the termination of this Agreement, shall preserve and make available to the Hernando BOCC for a period of five (5) years thereafter, all its books, records,

documents, and other evidence bearing on the costs and expenses of the services related to the work performed under this Agreement. The Sheriff's Office's right to audit and the preservation of records shall terminate at the end of five (5) years as stated herein. NGA 911 shall include this "Right of Audit and Preservation of Records" clause in all subcontracts issued by it.

- 13) **Monitoring.** NGA 911's activities conducted and records maintained pursuant to this Agreement shall be subject to monitoring and evaluation by the Hernando BOCC or the Hernando BOCC's duly appointed representatives.
- 14) **Institution and Federal Compliance.** NGA 911 shall comply with all applicable State and Federal laws and regulations in the performance of this Agreement.
- 15) **Strict Performance.** Failure by any Party to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- 16) **Effects of Force Majeure.** Neither Party shall be held liable or responsible for failure or delay in fulfilling or performing any of its obligations under this Agreement (other than the payment of money owed hereunder) to the extent that such failure or delay results from any cause beyond its reasonable control, including, without limitation, fire, flood, natural disaster, explosion, war, strike, labor unrest, riot embargo, acts or omissions of carriers, or act of God (each a "Force Majeure Event"). Such excuse shall continue as long as the Force Majeure Event continues, following which such Party shall promptly resume performance hereunder.
- 17) **Entire Agreement.** This Agreement, including the appended Statement of Work, constitutes the entire Agreement between the parties and supersedes and cancels any and all prior or contemporaneous arrangements, understandings and agreements, written or oral, between them relating to the subject matter hereof.
- 18) **Severability.** All of the provisions of this Agreement are intended to be distinct and severable. If any provision of this Agreement is or is declared to be invalid or unenforceable in any jurisdiction, it shall be ineffective in such jurisdiction only to the extent of such invalidity or unenforceability. Such invalidity or unenforceability shall not affect either the balance of such provision, to the extent it is not invalid or unenforceable, or the remaining provisions hereof, render invalid or unenforceable such provision in any other jurisdiction. In addition, the parties agree that the venue shall be in and for Hernando County, FL.
- 19) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. NGA 911 acknowledges and agrees that any rights or claims against the Sheriff's Office or its employees hereunder, and any remedies arising therefrom, shall be subject

to and limited to those rights and remedies, if any, available under Florida State Law. Venue for any dispute, claim or action arising out of, or related to, this Agreement shall be in the Circuit Court of the Fifth Judicial Circuit in and for Hernando County, Florida

- 20) **Amendment; Counterparts.** This Agreement cannot be modified, changed, terminated, discharged, waived or extended except in writing signed by each of the Parties hereto and approved by the appropriate officials in accordance with applicable Florida state laws and regulations.
- 21) **Counterparts.** This Agreement may be executed by facsimile or email in one or more counterparts, each of which shall constitute one and the same instrument.
- 22) **Counterparts.** NGA 911 acknowledges and agrees this Agreement shall be governed by State and Federal Laws and bound by the terms of the Department of Management Services for Grant S20-21-12-15, as applicable.
- 23) **Indemnification:** To the fullest extent permitted by Florida law, the NGA 911 covenants, and agrees that it will indemnify and hold harmless the County and all of the County's officers, agents, and employees from any claim, loss, damage, cost, charge, attorney's fees and costs, or any other expense arising out of any act, action, neglect, or omission by NGA 911 during the performance of the contract, whether direct or indirect, and whether to any person or property to which the County or said parties may be subject, except that neither the NGA 911 nor any of its subcontractors, or assignees, will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the County or any of its officers, agents, or employees.
- 24) **Public Records:** Pursuant to Section 119.0701 (Current Edition), Florida Statutes, Vendor/Contractor shall comply with the Florida Public Records' laws and shall:
  - A. Keep and maintain records required by the public agency to perform the service.
  - B. Upon request from the public agency's custodian of public records, provide the public agency 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 in this chapter or as otherwise provided by law.
  - C. Ensure that public 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 Contract term and following completion of the Contract if the Contractor does not transfer the records to the public agency.
  - D. Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

E. Failure to comply with this section shall be deemed a breach of the Contract and enforceable as set forth in Section 119.0701, Florida Statutes (Current Edition). IF THE VENDOR/CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES (CURRENT EDITION), TO THE VENDOR/CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 352-754-4020, PURCHASING@HERNANDOCOUNTY.US, WITH AN OFFICE LOCATED AT 15470 FLIGHT PATH DRIVE, BROOKSVILLE, FL 34604.

25) **E-Verify**: Contractor will comply with and use the E-Verify program set forth in 8 CFR 274.

**26) Insurance:**

a. The Contractor shall procure and maintain the following described insurance, except for coverages specifically waived by the County, on policies and with insurers acceptable to the County. These insurance requirements shall not limit the liability of the Contractor. All subcontractors are subject to the same coverages and limits as the Contractor. The County does not represent these types or amounts of insurance to be sufficient or adequate to protect the Contractor's interests or liabilities, but are merely minimums.

b. Insurance required of the Contractor or any other insurance of the Contractor shall be considered primary, and insurance of the County shall be considered excess, as may be applicable to claims which arise out of the Hold Harmless, Payment on Behalf of the County, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract or lease.

**c. WORKERS' COMPENSATION COVERAGE**

The Contractor shall purchase and maintain workers' compensation insurance for all workers' compensation obligations imposed by state law and employer's liability limits of at least \$500,000 each accident and \$500,000 each employee/\$500,000 policy limit for disease. The Contractor shall also purchase any other coverages required by law for the benefit of employees.

**d. GENERAL, AUTOMOBILE AND EXCESS OR UMBRELLA LIABILITY COVERAGE**

The Contractor shall purchase and maintain coverage on forms no more restrictive than the latest editions of the Commercial or Comprehensive General Liability and Business Auto policies of the Insurance Services Office. Minimum limits of \$1,000,000 per occurrence for all liability must be provided, with excess or umbrella insurance making up the difference, if any, between the policy limits of underlying policies (including employers liability required in the Workers' compensation Coverage section) and the amount of coverage required.

**e. GENERAL LIABILITY COVERAGE**

Coverage A shall include bodily injury and property damage liability for premises, operations, products and completed operations, independent contractors, contractual liability covering this agreement contract or lease, and broad form property damage, and property damage resulting from explosion, collapse or underground (x,c,u) exposures. Coverage B shall include personal injury. Coverage C, medical payments, is not required.

**f. PRODUCTS/COMPLETED OPERATIONS**

The Contractor is required to continue to purchase products and completed operations coverage, at least to satisfy this agreement, contract or lease, for a minimum of three years beyond the County's acceptance of renovation or construction projects.

**g. EXCESS OR UMBRELLA LIABILITY COVERAGE**

Umbrella Liability insurance is preferred, but an Excess Liability equivalent may be allowed. Whichever type of coverage is provided, it shall not be more restrictive than the underlying insurance policy coverages.

**h. CERTIFICATES OF INSURANCE**

If requested by the County, the Contractor shall furnish complete copies of insurance policies, forms and endorsements.

The Parties have executed this Agreement on the day, month and year first written above.

Contractor	NGA 911, LLC
Name	Ishka Villa
Signature & Date	
Title	Chief Financial Officer
Email	<a href="mailto:ishka@nga911.com">ishka@nga911.com</a>
Phone	310-721-3723

Contracting Agency	Hernando County Board of County Commissioners
Name	
Signature & Date	
Title	
Email	
Phone	

Approved as to Form  
and Legal Sufficiency

By: Victoria Anderson  
County Attorney's Office