

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Strategic Business Technology *MC*

BOARD AGENDA # *B-4

Urgent

Routine

AGENDA DATE November 8, 2011

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of a County-Wide Agreement with Telcion Communications Group of Turlock, California for the Purchase of Cisco Products and Accessories

STAFF RECOMMENDATIONS:

1. Approve a county-wide agreement with Telcion Communications Group in Turlock, California for the purchase of Cisco products and accessories.
2. Authorize the General Services Agency Director/Purchasing Agent to execute the county-wide agreement and any subsequent amendments to the county-wide agreement on behalf of the County during the term of the agreement.

FISCAL IMPACT:

County departments currently purchase Cisco products and accessories from several different vendors. The approval of this county-wide agreement provides individual departments the ability to purchase Cisco products and accessories at a substantial discount from a single vendor. The county-wide agreement would result in multiple purchases at varying levels over a five (5) year time frame. The requests for pricing and purchases may include small equipment replacement orders to major infrastructure upgrades.

(continued on next page)

BOARD ACTION AS FOLLOWS:

No. 2011-688

On motion of Supervisor De Martini, Seconded by Supervisor O'Brien

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, De Martini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

Christine Ferraro

ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk

File No.

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FISCAL IMPACT (continued):

Discounts off of the Cisco Manufacturer's Suggested Retail Price will be as follows:

Cisco Product Category	Discount
Hardware & Software*	
WAN/LAN	45%
Wireless	45%
Voice over Internet Protocol	45%
Video Surveillance (Physical) Security	45%
Video Conferencing	45%
Virtual Desktop	45%
Cius	45%
Unified Compute Servers*	
Hardware	55%
Software	45%
<i>* Minimum purchase order of \$10,000 MSRP before discount.</i>	
Cisco Small-Medium Business Products**	35%
SMARTnet** - NEW Contract	19%
SMARTnet** - Single Year Contract	19%
SMARTnet** - Two Year Contract	22%
SMARTnet** - Three Year Contract	24%
<i>** NO Minimum purchase on SMB/SMARTnet/ESW contracts.</i>	
Training Credits	8%

In the past five (5) years, the Master Agreement with Telcion Communications Group has saved the County over \$1,000,000 off of the Cisco Manufacturer's Suggested Retail Price in the purchases of Voice over Internet Protocol (VoIP) telephony related hardware and software. As the County continues to roll out VoIP telephones, the County will continue to save 45% off of the Cisco Manufacturer's Suggested Retail Price with the new agreement. In addition, the new county-wide agreement provides for discounts across the entire Cisco product line. Therefore, the County will also save 45% off of the Cisco Manufacturer's Suggested Retail Price in the Cisco non-VoIP product lines, such as switches that are key components to the County's network infrastructure. The previous agreement did not include any discount off of the Manufacturer's Suggested Retail Price for the Cisco maintenance and support agreements (a.k.a. SMARTnet, Essential Software, etc.), but the new agreement will provide 19% off, which is a considerable discount.

DISCUSSION:

Background

On October 3, 2006, the Stanislaus County Board of Supervisors approved to enter into a five (5) year agreement with Telcion Communications Group (formerly known as Netlogic, Inc.) for the purchase of the County's Voice over Internet Protocol (VoIP) telephone system. The chosen platform for VoIP was a Cisco solution. This agreement limited the County to the purchase of Cisco products to VoIP-related products and eliminated other opportunities within the Cisco product line. The existing agreement provided 45% off of the Cisco Manufacturer's Suggested Retail Price for VoIP related hardware and software, had a minimum order purchase of \$30,000 retail pricing before discount, and did not provide any discount on Cisco related maintenance/support (a.k.a. SMARTnet).

In review of the existing agreement that expires on November 1, 2011, and the overall equipment needs of the County, it was determined that a broader scope of products should be considered. Therefore in September 2011, the Invitation to Bid across the entire Cisco product line was developed with a scope of work that would provide County departments exceptional discounts across a wide array of Cisco hardware, software, and maintenance/support agreements.

Invitation to Bid

In collaboration with the County's General Services Agency, Strategic Business Technology developed the scope of work for the Invitation to Bid to establish a county-wide agreement with one (1) vendor for the purchase of Cisco products and accessories needed over the next five (5) years. The successful bidder will need to provide a full line of Cisco hardware, software, licensing and associated equipment. The county-wide agreement may be used by any County department to procure Cisco products. Additionally, the bidder shall include discounts given for maintenance services under Cisco's SMARTnet Extended Warranty.

The Invitation to Bid's scope of work did not include any provision for technical assistance from the vendor as the majority of any installation would be done by County staff. The county-wide agreement is strictly for the purchase of products and accessories. In addition, the agreement includes a non-exclusivity clause that does not restrict the County to purchasing only Cisco technology products, nor does it restrict a County department from purchasing Cisco products, maintenance, and accessories from only the successful vendor. The county-wide agreement was designed to provide flexibility to departments and guaranteed discounted pricing for the entire Cisco product line. The approval of the county-wide agreement will provide significant savings to the County and save staff time by using the county-wide agreement.

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The goal was to establish the best possible discount off of the Manufacturer's Suggested Retail Price in the purchase from a full line of Cisco products. The ensuing agreement would result in multiple purchases at varying levels over a five (5) year time frame. The requests for pricing and purchases may include small equipment replacement orders to major infrastructure upgrades.

On September 16, 2011, the Stanislaus County General Services Agency – Purchasing Division issued an Invitation to Bid – Bid Number 11-40-CB to establish a county-wide agreement with one (1) vendor for the purchase of Cisco products and accessories over the next five (5) years.

The Invitation to Bid was issued and responses were due on October 6, 2011. Ten (10) bid responses were received from the following:

- AMS.NET
- BEAR Data Solutions, Inc.
- CDW Government LLC
- CompuCom Systems, Inc.
- Disys Solutions
- Insight
- MTM Technologies, Inc.
- NetXperts, Inc.
- Nexus Integration Services
- Telcion Communications Group

As there was a wide variety in naming of Cisco product categories in the various proposals, a "pricing clarification" list that identified clearly the Cisco product categories was established and sent to all ten (10) vendors on Friday, October 7, 2011. Pricing clarification responses were to be submitted no later than 5 p.m. on Friday, October 14, 2011. Pricing clarifications were received from all ten (10) vendors within the deadline and reviewed.

A notice of intent to award was provided to the lowest bidder, Telcion Communications Group, on October 19, 2011. A corresponding notice not to award was sent to the other nine (9) responders on October 19, 2011. There were no protests or appeals received by the October 26, 2011 deadline.

The county-wide agreement with Telcion Communications Group would provide discounts off of the Cisco Manufacturer's Suggested Retail Price as follows:

Cisco Product Category	Discount
Hardware & Software*	
WAN/LAN	45%
Wireless	45%
Voice over Internet Protocol	45%
Video Surveillance (Physical) Security	45%

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Video Conferencing	45%
Virtual Desktop	45%
Cius	45%
Unified Compute Servers*	
Hardware	55%
Software	45%
<i>* Minimum purchase order of \$10,000 MSRP before discount.</i>	
Cisco Small-Medium Business Products**	35%
SMARTnet** - NEW Contract	19%
SMARTnet** - Single Year Contract	19%
SMARTnet** - Two Year Contract	22%
SMARTnet** - Three Year Contract	24%
<i>** NO Minimum purchase on SMB/SMARTnet/ESW contracts.</i>	
Training Credits	8%

Strategic Business Technology is requesting that the Board of Supervisors approves the county-wide agreement with Telcion Communications Group in Turlock, California for the purchase CISCO products and accessories and authorizes the General Services Agency Director/Purchasing Agent to execute county-wide agreement and any subsequent amendments to the county-wide agreement during the term of the agreement.

POLICY ISSUES:

This action is consistent with the Board's priorities of the Efficient Delivery of Public Services by providing an efficient and cost effective solution for the purchase Cisco products and accessories.

STAFFING IMPACT:

Existing staff from the General Services Agency and Strategic Business Technology will complete the tasks associated with this recommendation. There are no additional staffing requirements associated with this item.

CONTACT INFORMATION:

Marcia Cunningham, Director of Strategic Business Technology – (209) 525-4357
 Keith D. Boggs, Deputy Executive Officer, General Services Agency Director, County Purchasing Agent – (209) 525-6319

**COUNTY-WIDE AGREEMENT
FOR
INDEPENDENT CONTRACTOR SERVICES**

This County-Wide Agreement for Independent Contractor Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and Telcion Communications Group, a California corporation, ("Contractor") as of November __, 2011.

Recitals

WHEREAS, the County has a need for services regarding the design of and provision of products from the full Cisco product line; and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. **Scope of Work**

1.1 The Contractor shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit A**, attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Contractor under this Agreement, including without limitation electronic data files, are the property of the Contractor; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.

1.3 Services and work provided by the Contractor at the County's request under this Agreement will be performed in a timely manner consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions, and in accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

2. Consideration

2.1 County shall pay Contractor as set forth in Exhibit A.

2.2 Except as expressly provided in Exhibit A of this Agreement, Contractor shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

2.4 Pursuant to Penal Code section 484b and to Business and Professions Code section 7108.5, the Contractor must apply all funds and progress payments received by the Contractor from the County for payment of services, labor, materials or equipment to pay for such services, labor, materials or equipment. Pursuant to Civil Code section 1479, the Contractor shall direct or otherwise manifest the Contractor's intention and desire that payments made by the Contractor to subcontractors, suppliers and materialmen shall be applied to retire and extinguish the debts or obligations resulting from the performance of this Agreement.

3. Term

3.1 The term of this Agreement shall be from the date of approval of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit A.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, (b) sale of Contractor's business, (c) cancellation of insurance required under the terms of this Agreement, and (d) if, for any reason, Contractor ceases to be licensed or otherwise authorized to do business in the State of California, and the Contractor fails to remedy such defect or defects within thirty (30) days of receipt of notice of such defect or defects.

3.4 The County may terminate this agreement upon 30 days prior written notice to the Contractor. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the

Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Contractor to provide the services and work described in Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Contractor at no expense to the County.

5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in Exhibit A, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services identified in Exhibit A to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

6. Insurance

6.1 Contractor shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Automobile Liability Insurance. If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In

signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Contractor agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

6.4 The Contractor's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees or volunteers.

6.6 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to the County; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-:VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.

6.9 Contractor shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors.

7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Contractor or Contractor's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use; provided, however, such indemnification shall not extend to or cover loss, damage or expense arising from the sole negligence or willful misconduct of the County or its agents, officers and employees.

7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period service is provided to County under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

8.5 It is understood and agreed that as an independent Contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.6 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of

Contractor's assigned personnel under the terms and conditions of this Agreement.

8.7 As an independent Contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex, or sexual orientation. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: Stanislaus County Purchasing Agent
1010 10th Street, Suite 5400
Modesto, CA

To Contractor: Telcion Communications Group
Attn: Lance Reid
3050 Commerce Way
Turlock, CA 95380

15. Conflicts

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. Severability

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be

invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.


[SIGNATURES SET FORTH ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this County-Wide Agreement on the day and year first hereinabove written.

COUNTY OF STANISLAUS

TELCION COMMUNICATIONS GROUP


By: _____
Keith D. Boggs, Deputy Executive Officer,
GSA Director/Purchasing Agent

By:  _____
Lance Reid, President

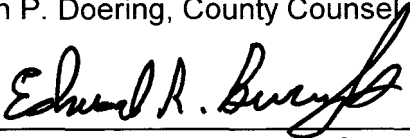
"County"

"Contractor"

APPROVED AS TO CONTENT:
Strategic Business Technology

By:  _____
Marcia Cunningham, Director

APPROVED AS TO FORM:
John P. Doering, County Counsel

By:  _____
Deputy County Counsel
Assistant

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EXHIBIT A

A. SCOPE OF WORK

1. The Contractor shall provide the following to Stanislaus County:
 - a. Provide discounts off of the Cisco Manufacturer's Suggested Retail Price list for hardware and software, training, and maintenance/support contracts as follows:

Cisco Product Category	Discount
Hardware & Software*	
WAN/LAN	45%
Wireless	45%
Voice over Internet Protocol	45%
Video Surveillance (Physical) Security	45%
Video Conferencing	45%
Virtual Desktop	45%
Cius	45%
Unified Compute Servers*	
Hardware	55%
Software	45%
<i>* Minimum purchase order of \$10,000 MSRP before discount.</i>	
Cisco Small-Medium Business Products**	35%
SMARTnet** - NEW Contract	19%
SMARTnet** - Single Year Contract	19%
SMARTnet** - Two Year Contract	22%
SMARTnet** - Three Year Contract	24%
<i>** NO Minimum purchase on SMB/SMARTnet/ESW contracts.</i>	
Training Credits	8%

2. **Delivery of Cisco Hardware** – The Contractor agrees to pay for the cost of UPS or FedEx ground shipping for ALL Cisco hardware ordered. If faster (e.g. overnight) shipping is requested by the County, the County agrees that the additional freight charges will be paid by the County.
3. **Delivery of Cisco Software** – The Contractor agrees that ALL Cisco media/software, including but not limited to initial license purchase, major releases, maintenance releases, upgrades, updates or patches, will only be made available by download over the Internet or sent electronically via email. Contractor and/or software distributor shall **not** send the County any hard copy media.

4. **Delivery of Cisco Maintenance/Support Contracts** – The Contractor agrees that ALL Cisco Maintenance and Support Contracts (i.e. SMARTNet, Essential Software, etc.) will only be made available by download over the Internet or sent electronically via email. Contractor and/or maintenance/support contract distributor shall **not** send the County any hard copy media.
5. **Hardware/Software Purchase Order** - For the purchase of Cisco hardware and software product categories:
 - a. The County agrees to meet the minimum purchase order of \$10,000 Manufacturer's Suggested Retail Price list before discount per order.
 - b. County will purchase NEW equipment with options and accessories. Accessory purchases will be made in conjunction with the new equipment purchases. Used, re-conditioned or re-manufactured equipment will not satisfy the requirement for NEW equipment.
 - c. All items must be delivered to the specific County department that placed the order no later than sixty (60) days after the purchase order is issued. If a delay is anticipated due to product availability, Contractor shall provide written notification to the County within fifteen (15) days from the receipt of the County Purchase Order. No substitutions will be allowed.
6. **SMARTnet/ESW Purchase Order** – With respect to purchase of Cisco SMARTnet/ESW and related maintenance/support contracts, the Contractor requires NO minimum purchase order amount to place an order. The Contractor agrees to assist the County departments with consolidation of orders where appropriate and/or requested.
7. **Product Quotes and Orders:** Requests for quotes will be sent to the Contractor for pricing and review of product listing accuracy. The quoted pricing shall include all requested equipment, software licenses, software support and subscriptions, SMARTnet Maintenance, transportation/freight, and applicable sales taxes as appropriate. Once the requesting department is ready to move forward, a purchase order will be issued. Contractor understands that orders exceeding \$100,000 may be subject to approval by the Stanislaus County Board of Supervisors. Individual department orders may be ordered simultaneously to maximize the overall discount to the County and the individual department purchases. A combined ordered including multiple departments will still have separate purchase orders issue on behalf of each department.
8. **Certification of Cisco products** - The Contractor shall source Cisco products directly from Cisco or through the US authorized distribution channels only. Products obtained outside these channels may require additional costs associated with product re-licensing and inspection fees before Cisco will enter into Warranty/Service support for the product in question. The US authorized distribution channels are with Comstor (US), Ingram Micro (US), Tech Data (US)

and Cisco (US) direct. Further, the County must be the original licensee of all ordered Cisco Software.

In the event there are questions pertaining to the validity of the Cisco products, the County reserves the right to verify the Cisco product origin with Cisco Systems, Inc. In the event that the Cisco Products have been acquired from un-authorized channels, the County further reserves the right to return the products for a full refund that will include the product costs, sales taxes plus shipping and handling charges and return shipping and handling charges.

9. **Project Solution and/or Design** – The County agrees to work exclusively with Contractor for the design and/or purchase order solutions for orders. The County understands that the 45% discount for hardware/software is contingent upon utilizing Contractor’s services, which will be provided to the County **AT NO CHARGE** to the County. The design and/or purchase order solutions may be as simple as a phone conversation or an email to identify the correct switch/router to meet the County’s need; to request pricing for VoIP telephony products; to advise the County regarding Cisco equipment end-of-life/end-of-support dates; to provide Cisco software/subscription/support license model changes; and to request assistance with SMARTnet contract consolidation and co-termination. For larger, more complex system designs, the Contractor will provide resources to develop a solution and provide the required parts list. Failure to meet this requirement will result in discounts of only 40% for hardware and software.
10. **Training Credits** – The Contractor shall provide Cisco Training Credits at discounted by 8% of the Manufacturer’s Suggested Retail price. In addition, the County reserves the right to negotiate Training Credits offered directly with Cisco. The Contractor will be expected to extend all negotiated credits to the County.
11. **Trade-In Opportunities** – With regard to Cisco Trade-In offers or promotional opportunities, the County will work with the Contractor to secure the appropriate discount and the Contractor will be expected to extend any savings negotiated to the County.
12. **Non-Exclusive Disclaimer** – The Contractor agrees that this agreement will provide individual County departments the opportunity to purchase Cisco products at a substantial discount as provided above. However, this Agreement does not restrict the County to purchase only Cisco technology products, nor does it restrict the County from purchasing Cisco products, maintenance, and accessories from sources other than the Contractor.
13. **Other provisions** –
 - a. The Contractor shall certify that Contractor is a Cisco Registered **Premiere Partner** and has the certification/specialization level required by Cisco to support both the product sale and product pricing.

- b. The Contractor must be a US based business with authority to conduct business in the State of California.
- c. County staff will be responsible for the installation, maintenance, and replacement of the majority of Cisco hardware, software, licensing and associated equipment. This Agreement will not include any professional services in this regard. Any need for outside technical assistance shall be negotiated separately from this agreement.

B. COMPENSATION

The Contractor shall be compensated for services under this Agreement as follows:

Invoices with detailed line items may be submitted to the County department that ordered the Cisco products after the delivery and receipt of all equipment, software, and maintenance/support agreements. The requesting County department shall review and approve all invoices prior to payment.

C. TERM

Paragraph 3.1 of this Agreement is amended to read as follows:

3.1 The term of this Agreement shall be from the date of this Agreement, November 8, 2011, to November 7, 2016, unless sooner terminated as provided below.

D. ACCESS TO ON-SITE EQUIPMENT

Should the Contractor require access to on-site equipment for any reason, the Contractor shall abide by County's IT security standards when utilizing any remote access method. Should Contract require physical access to equipment located in County-owned facility, access shall be coordinated through County department's IT staff. A County IT Staff member must be present while Contractor is on-site. On-site access shall be provided as needed to complete the project.

E. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Paragraph 5 of this Agreement is amended to read as follows:

5. The County will provide space at varying locations throughout the County for the necessary equipment and hardware. Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services under this Agreement. The Contractor--not the County--has the sole responsibility for payment of the costs and expenses incurred by Contractor in providing and maintaining such items.