

AGENDA ITEM 20

Consider clarifying the motion on adoption of the budget stating it was the intent of the Court to include Public Works Director position and a part time position in Road & Bridge.

Moved: **Commissioner Boatright**

Seconded: **Judge Doerfler**

Motion: To clarify the motion on adoption of the budget stating it was the intent of the Court to include Public Works Director position and a part time position in Road & Bridge.

Vote: 5 - 0

AGENDA ITEM 21

Discuss and take appropriate action on road bond program.

There was no action taken on this agenda item.

AGENDA ITEM 22

Discuss and take appropriate action on jail/courthouse annex expansion.

Ed Lee updated the court on the jail/courthouse annex expansion.

AGENDA ITEM 23

Consider authorizing advertising and setting date of October 1, 2003 at 2:00 p.m. in the Commissioner's Courtroom to receive proposals for the installation of a radio system for the new jail facility.

Moved: **Judge Doerfler**

Seconded: **Commissioner Limmer**

Motion: To authorize the advertising and setting the date of October 1, 2003 at 2:00 p.m. in the Commissioner's Courtroom to receive proposals for the installation of a radio system for the new jail facility.

Vote: 5 - 0

AGENDA ITEM 24

Consider authorizing advertising and setting date of October 15, 2003 at 2:00 p.m. in the Auditor's office to receive proposals for Food & Beverage Concession Services for the Parks and Recreation Department.

Moved: **Judge Doerfler**

Seconded: **Commissioner Limmer**

Motion: To authorize the advertising and setting the date of October 15, 2003 at 2:00 p.m. in the Auditor's office to receive proposals for Food & Beverage Concession Services for the Parks and Recreation Department.

Vote: 5 - 0

AGENDA ITEM 25

Consider rejecting bids received for asphalt mixes and asphalt emulsions.

Moved: **Judge Doerfler**

Seconded: **Commissioner Boatright**

Motion: To reject the bid received for asphalt mixes and asphalt emulsions.

Vote: 5 - 0

AGENDA ITEM 26

Consider approving contract with Dialogic for EMS Automated Emergency Notification System per awarded proposal #03WC903.

Moved: **Judge Doerfler**

Seconded: **Commissioner Heiligenstein**

Motion: To approve the contract with Dialogic for EMS Automated Emergency Notification System per awarded proposal #03WC903.

Vote: 5 - 0

ONE CALL AGREEMENT

This One Call Agreement ("Agreement") is made this 28th day of August, 2003 (the "Effective Date") between Dialogic Communications Corporation ("DCC"), a Tennessee corporation located at 3730 Cool Springs Blvd, Suite 300, Franklin, Tennessee 37067, and Williamson County ("Licensee"), a Texas County located at 710 Main Street - Suite 303, Georgetown, Texas 78626.

1 Definitions.

1.1 "Documentation" means written and/or on-line material provided by DCC to assist Licensee in the use of the System.

1.2 "On-Line Date" means the date on which DCC provides notice to Licensee that the System is available and ready for Licensee's Use.

1.3 "Product" means the Software and Documentation.

1.4 "Services" means the services described on Schedule B.

1.5 "Software" means the software programs listed on Schedule A and any updates, modifications and corrections thereto provided by DCC to Licensee hereunder.

1.6 "System" means the Software and the provision of the Services.

1.7 "Third Party Software" means the third party software listed on Exhibit A.

2 Grant of License. DCC hereby grants to Licensee, and Licensee accepts, a non-exclusive, non-transferable license to use the Product during the Term for its internal business purposes in accordance with this Agreement and the Documentation.

3 Payment and Taxes.

3.1 For the initial term, Licensee will pay DCC \$31,000 due 30-days of receipt of invoice, per the Texas Prompt Payment Act, which shall be sent at a time to coincide with shipment of software to Licensee. For the first and second renewal term(s), Licensee will pay DCC \$15,000 to be paid at least thirty (30) days prior to the end of the initial term. For any subsequent renewal term(s), Licensee and DCC shall negotiate pricing in accordance with similar systems.

3.2 The first 150,000 units of Telephone Line Calling Time (TLCT) as defined in Section 4.4) recorded per year shall be provided by DCC at no additional cost to Licensee. For every TLCT unit thereafter, Licensee shall pay \$.15 per TLCT unit recorded. This amount may be modified by DCC by providing notice to Licensee of the then current rate at least sixty (60) days before the end of the then current term. Licensee shall pay to DCC amounts for such TLCT in accordance with the Texas Prompt Payment Act.

4 Support/Services.

4.1 DCC will install required software on Williamson County-provided computer and provide a training seminar at Williamson County's facilities during a two-day on-site visit.

4.2 DCC will provide three-day training class tuition for two people to DCC's Training Center located in Franklin, Tennessee. Licensee will be responsible for any travel or other associated expenses.

4.3 DCC will process (geo-code) Licensee-supplied "9-1-1" telephone data and mapping data four times. Additional data processing is available at a price of \$500 per occurrence.

4.4 DCC shall record the amount of telephone line calling time ("TLCT") used on behalf of Licensee for each activation. Each call placed or received within the US shall be deemed to utilize one (1) unit of TLCT, provided that the call does not exceed one minute. Calls exceeding one minute will be calculated to utilize one unit of TLCT for every minute (or portion of minute) of the call beyond the initial minute. DCC shall thereafter send via FAX and/or email, a report of the number of messages delivered, the actual TLCT and the billed TLCT, if requested by Licensee.

4.5 DCC will provide reasonable telephone support from 8 a.m. to 5 p.m. CST, Monday through Friday excluding holidays. In addition, for emergencies, support personnel shall be available via pager 24 hours per day/7 days per week.

5 Warranty.

5.1 DCC warrants that each DCC employee assigned to perform services hereunder will have industry standard skills and training so as to be able to perform in a competent and professional manner. DCC warrants that the System shall function materially in accordance with the Documentation.

5.2 ANY THIRD PARTY SOFTWARE ARE PROVIDED BY DCC "AS IS". DCC provides no support, or warranty services with respect to any Third Party Software. To the extent permitted, DCC shall pass through and assign to Licensee any and all manufacturers' or suppliers' warranties, if any, with respect to any Third Party Software.

5.3 THE EXPRESS WARRANTIES IN THIS SECTION 5 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES. DCC DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. DCC WILL NOT BE LIABLE FOR LOSS OF DATA OR SOFTWARE RESULTING FROM OR RELATING TO THE SYSTEM.

5.4 IN NO EVENT WILL DCC BE LIABLE TO LICENSEE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR LOSS OF PROFITS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SYSTEM EVEN IF DCC HAS BEEN ADVISED OF THE POSSIBILITY THEREOF OR KNEW OF OR SHOULD HAVE KNOWN THEREOF. DCC'S TOTAL LIABILITY TO LICENSEE HEREUNDER, IF ANY, WILL IN NO EVENT EXCEED THE TOTAL AMOUNT PAID TO DCC HEREUNDER IN THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD.

5.5 The warranties in this Section 5 will not apply to any defects or problems caused in whole or part by (i) defects in any equipment, (ii) failure of any portion of equipment to function in

accordance with manufacturer's specifications, (iii) modifications or enhancements made to the Software by anyone other than DCC, (iv) any software, hardware, firmware, peripheral or communication devices used with the Software not provided by or approved of in writing by DCC, (v) failure of Licensee or any third party to follow DCC's most current instructions for proper use of the Software, (vi) negligence of Licensee or any third party, or (vii) failure to install and use the updates, modifications and corrections provided by DCC. If Licensee falls within any of the foregoing exceptions and requests DCC to provide support services for such defect or problem, Licensee will pay DCC for services at DCC's then current hourly rate.

6 Confidentiality. A party receiving Information (defined below) of the other will not disclose such Information other than to persons in its organization who have a need to know and who will be required to comply with this Section 6. The party receiving Information will not use such Information for a purpose inconsistent with the terms of this Agreement. "Information" means the Product, all information and intellectual property related thereto (including, but not limited to all databases provided to Licensee by DCC whether created by DCC or its third party licensors such as, without limitation, the mapping product databases) as well as information related to the business of DCC or Licensee. Information will not include: (i) information publicly known prior to disclosure; (ii) information coming into the lawful possession of the recipient without any confidentiality obligation; and (iii) information required to be disclosed pursuant to regulatory action or court order, provided adequate prior written notice of any request to disclose is given to the party whose information is to be disclosed. Each party will exercise at least the same degree of care to safeguard the confidentiality of the other's Information as it does to safeguard its own proprietary confidential information, but not less than a reasonable degree of care.

7 Ownership. The Product is DCC's exclusive property and constitutes a valuable trade secret of DCC. Licensee will take reasonable steps to protect the trade secret of the Product. Ownership of all copies is retained by DCC. Licensee may not disclose or make available to third parties the Product or any portion thereof. DCC shall own all right, title and interest in and to all corrections, modifications, enhancements, programs, and work product conceived, created or developed, alone or with Licensee or others, as a result of or related to the performance of this Agreement, including all proprietary rights therein and based thereon. Except and to the extent expressly provided herein, DCC does not grant to Licensee any right or license, express or implied, in or to the Product or any of the foregoing.

8 Injunctive Relief. Each party acknowledges that a violation or threatened violation by it of Section 6 or 7 hereof would result in damage that is largely intangible but nonetheless real and that is incapable of complete remedy by award of damages. Thus, such violation or threatened violation will give the injured party the right to a court-ordered injunction to specifically enforce such covenant or obligation. The party in violation of any such section shall pay as damages any reasonable expenses, including but not limited to attorney fees, incurred in obtaining specific enforcement.

9 Term. This Agreement will commence upon the date of acceptance of the Agreement by DCC, as set forth below, and will continue for a term of One year with the possibility of renewal for two additional years in one year increments per the submitted proposal.

10 Termination.

10.1 DCC may terminate this Agreement without further obligation or liability to Licensee if:

10.1.1 Licensee fails to timely pay any amounts due under this Agreement and fails to make such payments in accordance with the Texas Prompt Payment Act;

10.1.2 Licensee commits any material breach of this Agreement and fails to remedy such breach within sixty (60) days of notice from DCC; or

10.1.3 Licensee becomes the subject of a petition in bankruptcy; is or becomes insolvent; or admits a general inability to pay its debts as they become due.

10.1.4 Licensee may terminate this Agreement if DCC commits any material breach of this Agreement and fails to remedy such breach within sixty (60) days of notice from Licensee.

10.2 Upon termination or expiration of this Agreement, Licensee will cease all use of the Product and immediately return the Product and all copies thereof to DCC. All amounts owed to DCC will be immediately due and payable, and DCC will cease performance of all obligations hereunder without liability to Licensee. Sections 3, 5.2, 5.3, 5.4, 6, 7, 8, 10.2, 11, 13, 14, 15, 16, 17, 18, 19, and 20 will survive termination or expiration.

11 Other Remedies. DCC's rights and remedies under this Agreement will be cumulative and in addition to all other rights and remedies available to DCC in law and in equity.

12 Assignment. Neither this Agreement nor any rights or duties hereunder may be transferred, assigned, sublicensed or otherwise disposed of by Licensee to a third party, by operation of law or otherwise, without DCC's prior written consent.

13 Partial Invalidity. If any provision of this Agreement is ruled wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction, the validity and enforceability of all provisions of this Agreement not ruled to be invalid or unenforceable will be unaffected.

14 Modification; Waiver. This Agreement may not be modified or amended except in writing signed by the parties. No term or condition of this Agreement may be waived except in writing signed by the party charged with waiver. A waiver will operate only as to the specific term or condition waived and will not constitute a waiver for the future.

15 Notice. All notices and other communications required or contemplated herein will be in writing and delivered either by (i) personal delivery; (ii) expedited messenger service; (iii) postage prepaid return receipt requested certified mail; or (iv) facsimile and confirmed by postage prepaid U.S. certified mail, addressed to the party or parties for whom it is intended, at the addresses first

written above or such other address as the intended recipient previously has designated by written notice to the sender.

16 **Governing Law.** This Agreement will be governed exclusively by the laws of the State of Texas, without regard to its conflict of laws provisions. All parties agree that venue regarding any action arising hereunder will be exclusively in Williamson County, Texas.

17 **Third Party Beneficiaries.** None of the provisions of this Agreement is intended by the parties, nor shall they be deemed, to confer any benefit on any person not a party to this Agreement.

18 **Independent Contractors.** The relationship of the parties hereunder will be one of independent contractors and not that of a franchise, joint venture or employer. Neither party will have, and neither of them will represent to any other person that it has, any power, right or authority to bind the other, or to assume create, any obligation or responsibility, express or implied, on behalf of the other, except as expressly provided by this Agreement or as otherwise permitted in writing signed by both parties.

19 **Entire Agreement.** This Agreement and its schedules constitute the entire agreement of the parties with respect to the subject matter hereof, and supersede and cancel all prior agreements between the parties, written, oral or implied with respect to the subject matter hereof.

20 **Headings.** Headings are included in this Agreement for convenience only and are not to be deemed to be part of this Agreement. The interpretation of this Agreement will not be affected by any heading herein.

21 **Force Majeure.** In the event an act of government, war, fire, flood, act of God, power shortages or blackouts, breakdown of telephone lines and services, failure of the Internet, or other causes beyond the reasonable control of DCC prevents DCC from performing in accordance with the terms of this Agreement, such nonperformance shall be excused and shall not be considered a breach or default for so long as such conditions prevail. Williamson County requires written notification of any of the above mentioned events.

Licensee

Williamson County

By: John C. Doerfler 9-9-03
John C. Doerfler, County Judge

This Agreement is hereby accepted by the undersigned officer of DCC, on 8-28, 2003, at Franklin, Tennessee.

Dialogic Communications Corporation

David B. Hanna
David B. Hanna, Vice President of Business Services

SCHEDULE A

Software

COMMUNICATOR Software (current release)
GEOCAST Software (current release)
COMMUNICATOR Client Software
CFW Global Folder Manager
CFW Suitcase Installer
CFW FTP Software to receive suitcases
ArcView (one copy)

SCHEDULE B**Hosting Services**

The provision of all of the following at DCC selected sites:

- COMMUNICATOR 19" Rack Mount PC Hardware Platform (shared)

- Long Distance Carrier Access

- Modems for Faxing and Alpha Paging (shared)

- Shared Rack Space

- Power

- HVAC

- Security Access

- Telephone Circuits consisting of:

 - Shared Toll Free Access Circuits for Call In/Out

 - Shared Toll Free Access Circuits for Remote Activation

 - Shared Circuit for Alpha Paging

 - Shared Circuit for Report Faxing

 - Shared Network Connection for Report e-mailing

- Software Upgrades

- Scenario Consulting

- Annual Review

- Monitoring of Drills & Tests

- Customized Speech Messages

- Excel Data Import Template

- System Data Backups

AGENDA ITEM 27

Consider re-awarding existing annual contracts for fiscal year 04. (List filed with official minutes).

Moved: **Judge Doerfler**

Seconded: **Commissioner Hays**

Motion: To re-award the existing annual contracts for fiscal year 04. (List filed with official minutes).

Vote: **5 - 0**

< Attachment >

FY 2004 ANNUAL RE-AWARDS		
Bid #	BID NAME	Supplier
04WCA001	Air Conditioning/Heating Services	Aspen Air
04WCA002	Aggregate	Vulcan Items 5,6,7,8,9 & 10
04WCA002A	Aggregate	1st - Sunshine Sand & Gravel Items 1 & 2
04WCA002A	Aggregate	2nd - Killeen Crushed Stone Items 1 & 2
04WCA002A	Aggregate	3rd - Shallow Ford Const Items 1 & 2
04WCA002A	Aggregate	1st - Shallow Ford Const Items 3 & 4
04WCA002A	Aggregate	2nd - Killeen Crushed Stone Items 3 & 4
04WCA007	Culverts-Corrugated Metal	Wilson Culverts
04WCA008	Drugs & Prescriptions for Indigent Care	Medicine Shoppe Pharmacy GTN
04WCA008	Drugs & Prescriptions for Indigent Care	Wal-Mart Pharmacy GTN
04WCA008	Drugs & Prescriptions for Indigent Care	Albertson's Pharmacy RR
04WCA008	Drugs & Prescriptions for Indigent Care	Wal-Mart Pharmacy RR
04WCA008	Drugs & Prescriptions for Indigent Care	Quick Pharmacy RR
04WCA008	Drugs & Prescriptions for Indigent Care	Albertson's Pharmacy Cedar Park Bell
04WCA008	Drugs & Prescriptions for Indigent Care	Albertson's Pharmacy Cedar Park 183
04WCA008	Drugs & Prescriptions for Indigent Care	Pfennig's Pharmacy Taylor
04WCA013	Fuel	Triple S Petroleum Company
04WCA018	Landscape Maintenance	Custom Lawn Services
04WCA028	Road Signs & Markers	South Texas Power wash & Striping
04WCA028	Road Signs & Markers	PathMark Traffic Products of Texas, Inc
04WCA028	Road Signs & Markers	Rocal Inc.
04WCA028	Road Signs & Markers	Roadrunner Traffic Supply, Inc
04WCA030	Medical Grade Oxygen	AirGas SouthWest
04WCA034	Welding Gases	AirGas SouthWest
04WCA035	Uniforms for Law Enforcement Dept's	Miller Uniforms
04WCA036	Welding Supplies	AirGas SouthWest
04WCA037	Windshield Glass	Russel Glass
04WCA047	Guard Rails Materials - ONLY	Texas Corrugators
04WCA048	Guard Rails Materials & Labor	Roadway Specialties, Inc.
04WCA049	Plumbing Services	Fox Services
04WCA051	Protective Clothing & Equip for WC-EMS	Fisher Safety
04WCA052	Parks Landscape Services	Heart of Texas Landscape & Irrigation
04WCA054	Maint Contr. Hi-Speed Printers (02WC427)	Peak Technology
04WCAP101	EMS Mal-Practice Insurance	Extraco
04WCAP102	Property & Causality Insurance	TAC
	Automobile Insurance	TAC
Consumer Price Increase 2.1%		
Bid #	BID NAME	Supplier
04WCA014	Hauling	Georgetown Transportation
04WCA018	Landscape Maintenance	Greenhill
04WCA019	Ambulance - Class-1	San Antonio Ambulance Sales
04WCA020	Janitorial Service	ServiceMaster
04WCA025	Roadside Chemicals & Herbicides	Argo Distribution, LLC

*approved 9-9-03
John C. Doerfler*