



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**October 10, 2000**

**Ordinance 13972**

**Proposed No.** 2000-0514.1

**Sponsors** Nickels

1                   AN ORDINANCE authorizing the execution of a seven-  
2                   year contract between King County and the Shared Medical  
3                   Systems Corporation for installation and operation of an  
4                   information technology system for the Seattle-King County  
5                   department of public health.

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8                   **PREAMBLE:**

9                   In accordance with K.C.C. 4.04.040, the King County council may adopt an  
10                  ordinance permitting the county to enter into contracts requiring the payment of  
11                  funds from the appropriations of subsequent fiscal years.

12                  **BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

13                  SECTION 1. The executive is hereby authorized to execute a contract and any  
14                  amendments for installation and operation of an information technology system of  
15                  prevention, community health, correctional health and administrative services for seven  
16                  years. The programs are administered by the Seattle-King County department of public  
17                  health information system. It provides for termination in the case of nonappropriation of

18 funds. Under the terms of the contract, public health may purchase hardware, software,  
19 and implementation services to support installation of a system utilizing the remote  
20 computing option offered by the Shared Medical Systems Corporation (“SMS”). After  
21 system installation, public health shall pay a monthly computing fee to SMS based on the  
22 number of processing requirements. The terms of the contract allow public health to  
23 substitute within the value of the contract a conversion to the internal computing option  
24 on the King County mainframe computer. Public health and King County information  
25 and technology services division will evaluate conversion to the internal computing  
26 option dependent on upgrades to the county mainframe.

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SECTION 2. The executive is authorized to execute a contract with general terms and conditions, in substantially the form attached, for the installation and operation of an information technology system for programs administered by the Seattle-King County department of public health.

Ordinance 13972 was introduced on 9/5/00 and passed by the Metropolitan King County Council on 10/9/00, by the following vote:

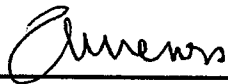
Yes: 12 - Mr. von Reichbauer, Ms. Miller, Ms. Fimia, Mr. Phillips, Mr. Pelz, Mr. McKenna, Ms. Sullivan, Mr. Pullen, Mr. Gossett, Ms. Hague, Mr. Vance and Mr. Irons  
No: 0  
Excused: 1 - Mr. Nickels

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



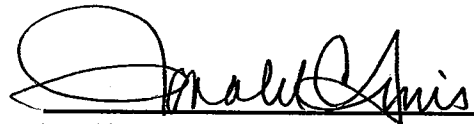
Pete von Reichbauer, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 11 day of October, 2000.



Ron Sims, County Executive

**Attachments** Exhibit A. Background on SKIL Project, Exhibit B. Alternatives Analysis Report, Exhibit C Agreement

## EXHIBIT A

**BACKGROUND ON SKIL PROJECT**

Public Health's SKIL Project covers three new information systems:

<b>Public Health Program</b>	<b>New System</b>
Environmental Health	A new system from the Decade Software Company. Fully implemented in December 1999.
Prevention, Community Health, Correctional Health, and Administrative Services	A new system from Shared Medical Systems Corporation (SMS). Will replace PHIS.
Pharmacy	A new system from Foundation Systems, Incorporated (FSI) (subcontractor to SMS). Will replace PHIS.

The King County Project Review Board (PRB) reviewed the SKIL Project in August 1999 and authorized continuation. The PRB process included representatives from the King County Budget Office, the City of Seattle Budget Office, King County Council staff, Information and Technology Services (ITS), and Public Health.

***Project Costs***

The total project budget from 1998 into early 2001 is \$3,067,976. The 1998, 1999, and 2000 adopted budgets included expenditure authority for the project. Public Health's 2001 budget request will include the final amount of funding necessary to complete the project.

Of the \$3.1 million budget, \$2.3 million applies to the cost of the systems replacing PHIS and \$0.8 million applies to the new Environmental Health system. For a point of comparison to the \$2.3 million cost of replacing PHIS, Public Health reviewed the cost of rewriting the PHIS system instead of replacing it and estimated that a rewrite would cost \$4.0 to \$5.5 million. The PRB discussed the option of rewriting PHIS and agreed that it carries significantly more cost and risk than replacing PHIS with a vendor-supplied system.

***Operating and Maintenance Costs***

The net annual increase in operating and maintenance costs of the new systems replacing PHIS will be approximately \$150,000. It is important to note, however, that this increase compares to the **current** cost of PHIS. As described above, the alternative to replacing PHIS would have been to upgrade it, and an upgraded PHIS would also have had a higher operating and maintenance cost.

**Background on Contract with Shared Medical Systems Corporation**

Shared Medical Systems Corporation is providing the new system for Prevention, Community Health, Correctional Health, and Administrative Services. SMS also is providing the new Pharmacy system through a subcontractor named Foundation Systems, Incorporated.

Public Health and SMS completed contract negotiations in December 1999. The contract encompasses installation of the new systems and ongoing operating and maintenance costs. The costs of the contract are included within the total project and operating costs explained above. Detail of the contract specific costs can be provided.

The contract is based on the "Remote Computing Option." This means that Public Health's computing activity will occur on a mainframe that is operated by SMS, and Public Health will pay SMS a monthly fee based on the amount of activity.

The PRB reviewed the choice of the Remote Computing Option and recognized it as an important decision point. SMS offers an alternative, called the "Internal Computing Option," in which a customer can pay an up-front license fee and install the system on its own mainframe. Public Health and ITS analyzed the choice between the Remote and Internal Computing Options and concluded that the King County mainframe could not support the application. Therefore, the Internal Computing Option is not a viable choice at this time. The report from this review is attached. The contract contains a clause allowing a transition to the Internal Computing Option in the future, assuming that the total value of the contract would not be diminished. Public Health and ITS will evaluate conversion to the Internal Computing Option dependent on upgrades to the county mainframe.

**Requested Ordinance**

Public Health and SMS currently are working under a one-year contract that will terminate at the end of 2000.

The requested ordinance would provide approval of continuation of the contract from January 2001 through December 2006.

## EXHIBIT B

Alternatives Analysis Report  
SKIL PRB Conditions #2 and #3

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**Overview of Process**

Representatives from ITS, Public Health MIS, and the Public Health SKIL Project conducted three worksessions and reached consensus in the third worksession on October 25, 1999. Public Health MIS staff contributed to the analysis of Public Health MIS workload and costs

**Summary of Conclusions**

*PRB Condition #2: Analyze cost impact of ICO alternative with ITS providing the mainframe compute power and operation support.*

- The ICO model is not a viable alternative under the current timeframe for SMS implementation. Some ITS mainframe software products are not at the current version levels required for the SMS product and are not scheduled to be installed before the currently planned start of SMS implementation.
- The cost of conversion to the ICO model will be analyzed in the future in conjunction with ITS' transition to mainframe software version levels that are compatible with the SMS product.

*PRB Condition #3: Analyze cost impact of ITS providing the server compute power and operation support for client/server portions of SKIL.*

- The concept of a cost difference in **server compute power** is not applicable. ITS does not currently have servers that would be available for dedicated use. Dedicated use is a requirement for the SKIL systems because of the complexities of maintaining release level compatibility when multiple applications reside on the same server.<sup>1</sup> ITS and Public Health presumably would incur the same cost to purchase dedicated servers; therefore, the alternatives do not have a cost difference.
- The **total cost** of providing **operation support** would not differ significantly between Public Health MIS and ITS. The cost estimates are \$77,000 and \$85,000, respectively.
- Public Health's **incremental cost** (defined as cost above existing budget) would be less if it provided the **operation support**.
  - If Public Health MIS provides the support, it estimates that its current staff will have sufficient capacity because of its plan to reduce existing servers in 2000 by eight (through server consolidation), thus offsetting the workload associated with the five new SKIL

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<sup>1</sup> When multiple applications reside on the same server, if one application must migrate to updated server software or shared third-party software, then all applications must migrate.

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servers. Therefore, Public Health's incremental cost would be limited to the cost of after-hours support and off-site storage of back-up tapes – an estimated \$23,000.

- If ITS provides the operation support, Public Health's reimbursement to ITS would be for the total ITS total cost of \$85,000.

**PRB Condition #2: Analyze cost impact of ICO alternative with ITS providing the mainframe compute power and operation support.**

	Alternative A: Remote Computing Operation (RCO) model initially with option to convert to Internal Computing Operation (ICO) in future.	Alternative B: Internal Computing Operation (ICO) initially.
Assumptions	<ul style="list-style-type: none"> <li>SMS implementation will begin in early 2000.</li> </ul>	
Issues		<ul style="list-style-type: none"> <li>Some ITS mainframe software products are not at the current version levels required for the SMS product and are not scheduled to be installed before the currently planned start of SMS implementation.</li> </ul>
Cost	<ul style="list-style-type: none"> <li>The cost of conversion to the ICO model will be analyzed in the future in conjunction with ITS' transition to mainframe software version levels that are compatible with the SMS product. The cost analysis will be dependent on the precise mainframe software products and version levels required for the SMS product.</li> </ul>	<ul style="list-style-type: none"> <li>N/A because of above issue.</li> </ul>
Additional Points	<ul style="list-style-type: none"> <li>ITS fully supports the alternative of establishing the RCO model with an option to convert to the ICO model.</li> </ul>	



**PRB Condition #3: Analyze cost impact of ITS providing the server compute power and operation support for client/server portions of SKIL.**

This condition contains three possible alternatives:  
 A: Public Health provide server compute power and operation support.  
 B: Public Health provide server compute power and ITS provide operation support.  
 C: ITS provide server compute power and operation support.  
 Alternative C is not applicable. ITS does not currently have servers that would be available for dedicated use. Dedicated use is a requirement for the SKIL systems because of the complexities of maintaining release level compatibility when multiple applications reside on the same server.<sup>2</sup> ITS and Public Health presumably would incur the same cost to purchase dedicated servers; therefore, the alternatives do not have a cost difference.

	Alternative A: Public Health provide server operation support.	Alternative B: ITS provide server operation support.
Assumptions	<ul style="list-style-type: none"> <li>PH and ITS are assumed to need the same # of staff hours to support the new servers (see Working Paper #1).</li> <li>PH and ITS are estimated to have different hourly costs (see Working Papers #1 and #3). However, PH needs to add a cost for after-hours support in order to establish comparability with ITS' services (see next point).</li> <li>A PH cost for 24x7 on-call support is included in order to establish comparability with ITS' services (see Working Paper #1). The PH business need for after-hours support is not fully determined, and full 24x7 may not be necessary.</li> <li>PH intends to meet the new workload with existing personnel because its total number of servers will be reduced in 2000, providing workload capacity for new servers (see Working Paper #2.) Therefore, PH would not incur an incremental cost for staff time.</li> </ul>	<ul style="list-style-type: none"> <li>ITS provide server operation support.</li> </ul>
Total Cost	<ul style="list-style-type: none"> <li>\$55,000 staff time (approx. 1/2 FTE fully burdened)</li> <li>\$3,000 on-call</li> <li>\$20,000 off-site storage</li> </ul>	<ul style="list-style-type: none"> <li>\$65,000 (including 24x7 on-call) (approx 1/2 FTE fully burdened)</li> <li>\$20,000 off-site storage</li> <li>\$65,000</li> <li>\$20,000 off-site storage</li> </ul>
Incremental Cost above Public Health Budget:	<ul style="list-style-type: none"> <li>\$3,000 on-call assignable to SKIL servers<sup>3</sup></li> <li>\$20,000 off-site storage</li> </ul>	
Additional Points	<ul style="list-style-type: none"> <li>Public Health intends to confirm its estimated labor costs with actual data.</li> </ul>	

<sup>2</sup> When multiple applications reside on the same server, if one application must migrate to updated server software or shared third-party software, then all applications must migrate.  
<sup>3</sup> The total cost of a 24x7 on-call program would be an estimated \$20,000. If prorated across SKIL and file/print servers, \$3,000 would be assignable to the SKIL servers and \$17,000 assignable to file/print servers. This \$17,000 also would be a new incremental cost for Public Health.  
 October 26, 1999

THIS AGREEMENT ("Agreement" or "Contract"), made this [23] day of Dec, 1999, (the "Effective Date") by and between King County, Washington, (hereinafter "County") and Shared Medical System Corporation, a Delaware corporation with its principal office at 51 Valley Stream Parkway, Malvern, Pennsylvania, 19355 ("Contractor" or "SMS").

WITNESSETH:

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WHEREAS, County has caused Contract Documents for:

Contract Number: T00834T  
Proposal Number: 139-98RLD  
Contract Title: Sea-King Information Links (SKIL) System Implementation Project

WHEREAS, SMS has responded to Request for Proposal 139-98RLD and shall provide the information systems, processes, Applications, technology and Services as set forth in this Contract and in accordance with a mutually agreed upon Implementation Workplan; and

WHEREAS, County has accepted SMS's offer to perform the Work in accordance with the Contract's terms, Implementation Workplan and Proposal documents; and

NOW THEREFORE, in consideration of the mutual covenants and agreements of the parties herein contained and to be performed, SMS hereby agrees to complete the Work at the price and on the terms and conditions herein contained, and to assume and perform all of the covenants and conditions herein required of SMS, and County agrees to pay SMS the Contract Price provided herein for the fulfillment of the Work and the performance of the covenants set forth herein.

THE FURTHER TERMS, CONDITIONS AND COVENANTS of the Contract are set forth in the following exhibit parts, each of which is attached hereto and by this reference made a part hereof: the Contract Document which includes: Definition of Words and Terms, Introduction Overview, Standard Contractual Terms and Conditions, Specific Contractual Terms and Conditions, Insurance Requirements, Statement of Work, and Attachments, A (Proposal Response Form and Exhibit 1), B (Payment Schedule), C (Personnel Inventory Report), D (Affidavit and Certificate of Compliance Regarding Equal Employment Opportunity), E (Current or Former King County Employee Disclosure Form), F (Consultant Disclosure Form), G (ADA/504 Self Evaluation Questionnaire), H (Evidence of Insurance), I (Acceptance Criteria), J (Grant of License and Exhibits A, B and C), K (Support Program, L (Source Code Escrow Agreement), M (Equipment/System Software/Application Software Components), N (Enhancements, External Interfaces, Conversion Requirements), O (Project Milestones), P (Change Order Process and Exhibit 1), Q (Consultant Confidentiality Agreement), R (Response Time Warranty), S (SMS License Agreement (Implementation Methodology)), T (Signature RCO Online Availability); Request for Proposal Addenda No. 1; Request for Proposal; Proposal.

KING COUNTY, WASHINGTON

APPROVED BY:

*Anita Geving*  
Signature

ANITA GEVING, CHIEF OPERATING OFFICER  
Print name and title

12/23/99  
Date Accepted

Approved as to form only: *Marcin Odeh*  
12/23/99

SHARED MEDICAL SYSTEMS CORPORATION

ACCEPTED BY:

*Michael J. Etue*  
Signature

Michael J. Etue, Vice President, Customer Operations  
Print name and title

12/23/99  
Date Accepted

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## ATTACHMENTS:

Attachment A	Proposal Response Form
Exhibit 1	Instructions for Affirmative Action Compliance and Minority/Women's Business Participation on King County Contracts
Attachment B	Payment Schedule
Attachment C	Personnel Inventory Report
Attachment D	Affidavit and Certificate of Compliance Regarding Equal Employment Opportunity
Attachment E	Current or Former King County Employee Disclosure Form
Attachment F	Consultant Disclosure Form
Attachment G	ADA/504 Self-Evaluation Questionnaire
Attachment H	Evidence of Insurance
Attachment I	Acceptance Criteria
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Attachment K	Support Program
Attachment L	Source Code Escrow Agreement
Attachment M	Equipment/System Software/Application Software Components
Attachment N	Enhancements, External Interfaces, Conversion Requirements
Attachment O	Project Milestones
Attachment P	Change Order Process
Attachment Q	Consultant Confidentiality Agreement
Attachment R	Response Time Warranty
Attachment S	SMS License Agreement (Implementation Methodology)
Attachment T	Signature RCO Online Availability

Request for Proposal Addenda No. 1  
RFP 139-98RLD  
Proposal Response

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## DEFINITION OF WORDS AND TERMS

Words and terms shall be given their ordinary and usual meanings. Where used in the Contract Documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

Acceptance: Formal action of County in determining that each component of SMS's Work has been completed in accordance with the Acceptance Criteria as defined in Attachment I, Acceptance Criteria.

Adaptation: The alteration of the Application(s) utilizing the Architectural Software (AS) and other user-controlled features provided by SMS (for example, the creation, deletion and alteration of screens, reports and profiles).

Applications: All of the computer software, including Releases, Versions, Updates and any Interfaces between Applications, but exclusive of Adaptations, Modifications and Custom Programming, if any, listed in Attachment M, Equipment/System Software/Application Software Components.

Architectural Software: Any on-line software tools provided by SMS which are used to create Adaptations.

Associated Date Routine Logic: Year 2000 date calculation logic as referenced in the SMS Century Date Manual.

Base Data Storage: The number of records that County may retain within the Signature databases without incurring additional fees. The specific number of records included in the Base Data Storage is defined in Attachment M, Equipment/System Software/Application Software Components, Sizing and Capacity Assumptions.

Business Day: Generally Monday through Friday, except when a nationally recognized holiday falls on one of those days.

Care Provider: An individual full-time equivalent physician, physician's assistance, nurse practitioner, nurse anesthetist and dentist for whom the Department of Social and Health Services (DSHS or Medicaid) has assigned a billing ID number.

Change Order: Written Contract amendment mutually agreed to in writing by County and SMS, consistent with the procedures described in Attachment P, Change Order Process.

Contract or Contract Documents: The writings and drawings embodying the legally binding obligations between County and SMS for completion of the Services or Work under the Contract, provided that the RFP and SMS's proposal response shall only be deemed a part of this Contract until the completion of two (2) month-end processes following First Productive Use of the System, as described in Section 3.1, Contract Documents and Precedence..

Contract Administrator: The individual designated by County to represent County for the purpose of administration of the Contract. This person may be the Project Manager.

Contract Price: Amount payable to SMS under the terms and conditions of the Contract for the satisfactory performance of the Services and Work under the Contract.

Contract Period: The period and time during which SMS shall perform the Services or Work under the Contract as defined in Section 3.2.

Council: Metropolitan King County Council. The legislative body of King County.

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Custom Programming: Programming, Interfaces to non-SMS software or systems, and file conversion made by SMS at County's request. Custom Programming may be delivered with new Releases of the Application(s), or may be supplied separately.

Deliverables: Collectively, the Applications, Custom Programming, Documentation (including SMS Softcopy Library®), any Third Party Software that SMS provides to County, and the SMS Implementation Methodology.

Delivery Date: With respect to (i) a standard Application(s), Custom Programming or Interface, the date on which that item is available to County for testing or adaptation; (ii) a computer, tape or disk drive installed by a manufacturer, the date on which that manufacturer certifies to County that such Equipment is installed and operational according to the manufacturer's procedures in effect on the date of installation; and (iii) all other Equipment, County-installable Applications, and Documentation, the date on which that item is physically delivered to County.

Documentation: The detailed description of functions and related processes and procedures for the Architectural Software, and Applications, including all revisions thereto, as referenced in Attachment M, Equipment/System Software/Application Software Components. Until the completion of two month end processing cycles following First Productive Use of the System, Documentation shall also include SMS's proposal dated November 5, 1998, to the extent described in Section 3.1, Contract Documents and Precedence.

Error: An unanticipated Application problem resulting in program behavior not following the Application's logical design and/or SMS's Documentation. This definition does not extend to the use of the term 'errors' within the context of Errors and Omissions Liability Coverage in Section 4, Insurance Requirements.

Equipment: Collectively, those items specified as 'Equipment' in Attachment M, Equipment/System Software/Application Software Components, as may be updated from time to time.

Extra Base Data Storage: The volume of data storage that County has requested be included within the terms of this Contract which is in excess of the Base Data Storage defined in Attachment M, Equipment/System Software/Application Software Components, Sizing and Capacity Assumptions.

First Productive Use: The date on which live data is first processed through an Application and used in County's business operations.

FTE: Full-time equivalent staffing.

Functionality: The configuration, as specified by SMS and as defined in Attachment M, Equipment/System Software/Application Software Components, and the Interfaces, shall operate together with the Equipment and Third Party Software in accordance with the applicable Documentation and Specifications, and in accordance with the integrated operating efficiency defined in Attachment R, Response Time Warranty.

Implementation Workplan: The document which has been or shall be agreed to by County and SMS and included as a Milestone for this Contract.

Initial Warranty Period: The twelve (12) month period beginning on the first day following First Productive Use of the Foundation Systems, Inc. Application.

Interface: The custom Interface between SMS Applications and any non-SMS systems.

ISC: The SMS Information Services Center.

Milestone: A listing of the documents, Equipment, Applications and/or accomplishments SMS has agreed to provide to County under the terms of this Contract.

Modification: Any programming change to Applications, made by anyone other than SMS.

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Monthly Remote Computing Fee: The monthly fee identified in Attachment B, Payment Schedule, that County agrees to pay SMS for the use of the RCO Applications, including monthly extended support for those Applications.

Processing Requirements ("PR"): The number of monthly patient visits at a Site. One patient visit shall be counted each time charges of a Care Provider are posted with a unique service date.

Project Manager: The individual designated by County who may manage the project on a daily basis and may represent County for Contract administration.

RCW: The Revised Code of Washington.

Release: A redistribution of Application(s) containing an aggregation of Updates and/or functional, operational and/or performance improvements.

RFP: Request for Proposal. Also known as the solicitation document (see also, Documentation).

Server: A single database or file Server that may be accessed by a network of personal computers.

Services: The furnishing of labor, time or effort by SMS, not involving the delivery of any specific end product. Work performed to meet a demand, especially work not connected with a manufacturing process. For the purpose of this Contract, Services may include, but is not limited to, user training, conversion assistance and other implementation services and assistance as set forth in this Contract.

Site: Those County clinics/facilities listed in Attachment J, Exhibit A at which the Application is to be used.

Specification: The written documentation relating to Custom Programming, which shall be mutually agreed upon by County and SMS.

Subcontractor: The individual, association, partnership, firm, company, corporation, or joint venture entering into an agreement with SMS to perform any portion of the Work covered by this Contract.

Subsection: For reference or citation purposes, Subsection shall refer to the paragraph, or paragraphs, called out by part, section and alphanumeric designator.

Statement of Work: A section of the Contract consisting of written descriptions of the Services to be performed and/or the Milestones to be provided.

System: The Applications, Equipment and Third Party Software identified in Attachment M which are installed in an operational environment and which work in conjunction with each other.

Third Party Software: Operating system software and other software developed by parties other than SMS, including without limitation, those which County obtains through SMS as well as those which SMS specifies as required for County to obtain separately.

Update: A package of Application corrections as well as revisions addressing common functional and performance issues.

Version: The delivery of new features packaged as part of existing and/or new Applications.

WAC: Washington Administrative Code.

Warranty Period: The period of time including the Initial Warranty Period and all additional periods defined in Attachment K, Support Program, during which SMS has agreed to support and maintain the Application(s) and/or Equipment.

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Work: Everything to be done by SMS and provided for the fulfillment of the Contract.

Year 2000 Compliant: This term has the meaning defined in Section 3.9.1 of this Contract.



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## SECTION 1 - INTRODUCTION OVERVIEW

County issued RFP 139-98RLD to find and engage a vendor or vendors to assist County with the replacement of its mainframe based legacy system, in addition to several standalone database systems, with a common, integrated application(s) to be used across all public health programs. To achieve this goal, County outlined the following critical tasks to be performed by the selected vendor(s) as mutually agreed upon in the Implementation Workplan:

- Identify the Application solution (or solutions) needed to meet the stated requirements of RFP 193-98RLD.
- Identify the minimum and optimum Equipment/network requirements to support the Functionality of the Application(s).
- Prepare an Implementation Workplan and schedule
- Convert existing data files
- Install and test the new Application(s)
- Design, program, test and implement Custom Programming requirements
- Design, program, test and implement any required external system Interfaces
- Train users and provide user and System Documentation
- Provide System implementation assistance
- Provide ongoing Application maintenance and support

Based on the evaluation of proposals submitted by vendors, County has selected Shared Medical Systems Corporation as the proposer most advantageous to County for the Personal and Preventive Health and Pharmacy components of RFP 139-98RLD. County and SMS have negotiated this Contract following such selection and the remaining provisions of this Contract define the responsibilities and roles of the parties hereto.

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## SECTION 2- STANDARD CONTRACTUAL TERMS AND CONDITIONS

### 2.1 Administration

This Contract is between County and SMS. SMS will be responsible for providing the Deliverables and Milestones, and for performing the Services described herein or under the Implementation Workplan. County is not a party to defining the division of Work between SMS and its Subcontractors, if any, and the specifications have not been written with this intent.

SMS represents that it has or will obtain all personnel and equipment required to perform its Work hereunder. Such personnel shall not be current employees of County or former employees of County without the written approval of County. Any current or former County employees who are involved, or become involved, in the performance of SMS's duties under the Contract must be disclosed according to Attachment E, Current or Former King County Employee Disclosure Form, and County will determine whether conflicts of interest or ethical violations exist under the circumstances.

SMS's performance under this Contract may be monitored and reviewed by a Contract Administrator appointed by County. Reports and data required to be provided by SMS shall be delivered to the Contract Administrator. Questions by SMS regarding interpretation of the terms, provisions and requirements of this Contract shall be addressed initially to the Contract Administrator for response.

### 2.2 Change Orders

Either party may request changes to this Contract. Proposed changes which are mutually agreed upon shall be incorporated by written amendment to this Contract.

If any Change Order causes an increase or decrease in the price (fees) for, or the time required for, performance of any part of the Work under this Contract, the parties shall agree to an equitable adjustment in the Contract Price, the delivery schedule, or both. The Contract Administrator shall be responsible for preparing all County-required documents associated with modifying the Contract to include the agreed upon Change Order. See also Attachment P, Change Order Process.

Any request for equitable adjustment must be in writing and state the general nature and monetary extent of the claim. County may require additional supporting documents and analysis to determine the validity of a request for an adjustment. No request by SMS for an equitable adjustment hereunder will be allowed if asserted after final payment under this Contract.

### 2.3 Termination for Default and Non-Appropriation

#### 2.3.1 Termination for Default.

If either party materially breaches any of its obligations under this Contract, the non-defaulting party may terminate this Contract, in whole or in part, for default. Termination shall be effected by serving a notice of termination by certified mail, return receipt requested, on the defaulting party setting forth the manner in which the defaulting party is in default and the effective date of termination; provided that the defaulting party shall have forty-five (45) calendar days to cure the default, unless otherwise mutually agreed by the parties. Notwithstanding the foregoing, SMS shall not be held liable and/or responsible for any material default principally caused by the actions and/or inactions of County. In the event that SMS reasonably disputes its liability and/or responsibility for a purported breach of its obligations under this Contract, the parties may follow the procedure outlined in Subsection 2.19.2 relating to dispute resolution.

#### 2.3.2 Termination for Non-Appropriation

Funding for this Contract beyond the current appropriation year is conditional upon appropriation by the King County Council of sufficient funds to support the activities described in this Contract. Should such an appropriation not be approved, this Contract will terminate at the close of the current

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appropriation year. If the Council approves a partial appropriation, County may, upon written notice to SMS, terminate this Contract in whole or in part. In the event of a partial termination, SMS shall not be liable for any degradation or failure of the remaining System attributable to the partial termination. The appropriation year ends on December 31 of each year.

In accordance with King County Code 4.04.040 B.6, payment shall not exceed the appropriation for the year in which termination is effected. If this Contract is terminated for non-appropriation:

2.3.2.1 County will be liable only for payment in accordance with the terms of this Contract for Services and Equipment accepted prior to the effective date of termination; and

2.3.2.2 SMS shall be released from any obligation to provide further Services pursuant to the Contract as are affected by the termination.

If expected or actual funding is withdrawn, reduced or limited in any way prior to the termination date set forth in this Contract or in any amendment hereto, County may, upon prior written notice to SMS, immediately terminate this Contract in whole or in part. Such termination shall be in addition to County's rights to terminate for default.

Nothing in this Section 2.3 shall limit, waive or extinguish any right or remedy provided by this Contract or law that either party may have in the event that the obligations, terms and conditions set forth in this Contract are breached by the other party.

## 2.3.3 Re-Appropriation of Funds

If this Contract is terminated pursuant to Section 2.3.2, and if funds are appropriated for Services of the kind contemplated under this Contract during the year of termination or during the following year, then County shall promptly notify SMS, in writing, and use its best efforts to contract anew with SMS for Services of the kind contemplated under this Contract.

## 2.4 Force Majeure

The term "force majeure" shall include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, fire, accidents, shutdowns for purpose of emergency repairs, strikes and any other industrial, civil or public disturbance, that are not reasonably within the control of a party, causing the inability to perform the requirements of this Contract. If any party is rendered unable, wholly or in part, by a force majeure, to perform or comply with any obligation or condition of this Contract then, upon giving notice and reasonably full particulars to the other party, such obligation or condition shall be suspended only for the time and to the extent reasonably necessary to allow for performance and compliance and restore normal operations. In the event either party ceases to be excused pursuant to this provision and fails to perform its obligations under this Contract, then either party shall be entitled to exercise any remedies otherwise provided for in this Contract, including termination for default.

## 2.5 Payment Procedures

2.5.1 Invoices with supporting documentation as appropriate will be submitted by SMS for material and/or Services provided to:

James A. Stutz, SKIL Project Manager - or a designated alternate  
King County  
2124 Fourth Avenue  
4<sup>th</sup> Floor  
Seattle, WA 98121

County requires that all invoices must include the following information: Contract number, requester's name, address, and phone number, date of invoice, invoice number and total invoice price. For each item of Equipment purchased, indicate the quantity, description, part number,

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model and serial number and, where applicable, the item price and total price for the item(s). For professional Services, identify, by consultant, the hourly rates, hours worked and total hours or related fees for each consultant. Failure to comply with this requirement may delay payment.

2.5.2 Each of the amounts payable by County to SMS, as described in Attachment B, Payment Schedule, shall be due and payable on the date or event specified in this Contract or, if not specified, thirty (30) days after the date of the invoice. SMS shall fax a copy of each invoice on the date of the invoice. SMS shall send the original invoice via Fed Ex by the close of the next Business Day following the date of the invoice. SMS will assess County a late payment charge on any amount which remains unpaid after it is due, computed at the rate of one and one-half percent (1 and ½%) per month on the unpaid amount for each month that such amount remains unpaid; provided, however, County will not be assessed the late payment charge on amounts withheld in association with a good faith dispute if County provides the local SMS office with a detailed written description of any disputed amounts within thirty (30) days of the date of the invoice and pays undisputed amounts in a timely manner.

2.5.3 Acceptance of such payment for the Deliverables or items invoiced shall constitute full compensation for all supervision, labor, supplies, materials, Services, Work, Equipment and the use thereof, and for all other necessary expenses contained within SMS's invoice.

## 2.6 Charges to SMS

Charges which are the obligation of SMS under the terms of the Contract shall be paid by SMS to County on demand and may be deducted by County from any monies due or to become due to SMS under the Contract and may be recovered by County from SMS or its surety.

## 2.7 Washington State Sales Tax

County will make payment directly to the State for all applicable State sales taxes in case SMS is not registered for payment of sales taxes in the State of Washington. If SMS is so registered, it shall add the sales tax to each invoice and upon receipt of payment from County, promptly remit appropriate amounts to the State of Washington.

## 2.8 Taxes, Licenses, and Certificate Requirements

This Contract and any of the Services or supplies provided hereunder are contingent and expressly conditioned upon the ability of SMS to provide the specified Service or supplies consistent with federal, state and local law and regulations. If, for any reason, SMS's required licenses or certificates are terminated, suspended, revoked or in any manner modified from their status at the time this Contract becomes effective, SMS shall notify County immediately of such condition in writing.

County shall be responsible for the payment (directly or by reimbursement of SMS) of all taxes imposed on SMS or County and resulting from this Contract or any performance under this Contract, excluding taxes based on SMS's income, employment taxes and unemployment insurance relating to SMS employees, and all other taxes deemed to be the sole responsibility of SMS. If County provides SMS with a copy of its tax exemption letter or number, SMS shall not bill County for taxes to which the exemption applies. SMS shall be liable for all licenses, permits, fees and other costs required to conduct business in King County, Washington, and/or perform the Services as contemplated hereunder.

## 2.9 Changed Requirements

New Federal, State and County laws, regulations and ordinances may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing requirements, SMS agrees to use commercially practicable efforts to accept all changed requirements that apply to this Contract and require Subcontractors to comply with revised requirements as well. Changed requirements will be implemented through Subsection 2.2 Change Orders.

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## 2.10 No Waiver of Warranties and Contract Rights

Conducting of tests and inspections, review of Specifications or plans, payment for goods or Services or Acceptance of a product or Service by County shall not constitute a waiver, modification or exclusion of any express or implied warranty or any right under this Contract or in law.

## 2.11 Assignment/Subcontracting

No party shall assign any interest, obligation or benefit under this Contract or transfer any interest in the same, whether by assignment or novation, without prior written consent of the other party; such consent shall be deemed given if the assignee complies with each requirement of this paragraph. SMS may, following commercially practicable written notification to County, assign this Contract without prior written consent to a parent or subsidiary, or a subsidiary of its parent, or to a successor by purchase, merger or consolidation, provided that the assignee agrees, in writing, prior to the assignment, to assume and be responsible for the obligations and liabilities of SMS or County, known and unknown, under this Contract and applicable law. If assignment is approved, this Contract shall be binding upon and inure to the benefit of the successors of the parties. This provision shall not prevent SMS from pledging any proceeds from this Contract as security to a lender.

## 2.12 Limitation of Liability

### 2.12.1 Patent and Copyright Indemnity

2.12.1.1 Except to the extent SMS can prove actual prejudice by County's direct failure in (i) and (ii) below, at SMS's expense as described herein, SMS shall indemnify, defend and hold County harmless from and against any claim that the Applications or Documentation infringe a patent, copyright, trademark, or other intellectual property right by defending against such claim and paying for all amounts that a court finally awards or that SMS agrees to in settlement of such claim. SMS shall also reimburse County for all reasonable expenses incurred by County at SMS's request. County agrees to: (i) give SMS written notice of such claim; and (ii) allow SMS to control, and fully cooperate with SMS in, the defense and all related negotiations. SMS is responsible for paying all license fees, royalties or the costs of defending claims for the infringement of any patented invention, article, process or method that may be used in performing this Contract, or with the completed Work, that a court awards or that SMS agrees to in settlement of such claim.

SMS shall, in its reasonable judgment and at its option and expense: (i) obtain or seek for County the legal right to continue using the Application(s); (ii) replace or modify the Application(s) so that it becomes non-infringing while giving equivalent performance; or (iii) if SMS cannot obtain the remedies in (i) or (ii), the parties may follow the procedures outlined in Section 2.19, Dispute Resolution and Mediation to determine the remedy. Notwithstanding this Section, County retains the right and ability to defend itself against any claims that the licensed Application(s) infringes any patent or copyright. If County chooses to defend itself or enter into a settlement agreement without SMS's prior knowledge, consent and specific agreement to pay costs, County understands that SMS will not indemnify County for its costs and expenses.

2.12.1.2 SMS's obligation under this Section is conditional upon County's agreement that, if the operation of the Applications or the use of Documentation becomes, or in SMS's opinion is likely to become, the subject of an infringement claim, then County shall permit SMS, at SMS's expense, either to procure the right for County to continue to use such items or to replace or modify them so that they become non-infringing and retain substantially comparable functions. SMS shall have no obligation with respect to any claim based on (i) County's use of the Applications or Documentation in violation of this Contract; (ii) Modifications; or, (iii) Custom Programming for which SMS does not solely develop the Specifications, or the parties do not jointly develop the Specifications. For any action asserted by a country which is a non-signatory to the Berne Convention, SMS agrees to

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accept tender from County for the handling and disposition of the claim as SMS deems appropriate. This Section states SMS's entire obligation to County regarding intellectual property right infringement.

## 2.12.2 Indemnification for All Other Actions

- 2.12.2.1 Each party shall protect, defend, indemnify and save harmless the other party, its officers, employees and agents from any and all costs, claims, judgments and/or awards of damages for injuries to persons and/or damage to tangible property, arising out of or in any way resulting from each party's own acts or omissions to the extent each party is liable for such acts or omissions.
- 2.12.2.2 SMS's indemnification obligation shall include, but is not limited to, all claims against County by an employee or former employee of SMS or its Subcontractors, and SMS expressly waives by mutual negotiation, with respect to County only, all immunity and limitation of liability under any industrial insurance act, including Title 51 RCW, other worker's compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. In the event of litigation between the parties to enforce the rights under Section 2.12.2, costs and fees, including reasonable attorney fees, shall be allowed to the prevailing party.

## 2.12.3 Limitation of Liability

- 2.12.3.1 SMS shall be given the opportunity to cure a breach of this Contract by either repair or replacement. In the event that such breach cannot be remedied by repair or replacement by SMS, or where a repair or replacement remedy is not applicable, SMS shall be liable only for direct damages as follows: (i) with respect to term-based (including term-licensed and/or RCO) Applications, in the aggregate up to the previous twelve (12) months of the monthly fee paid for such Applications, as defined in Attachment B (Payment Schedule) of this Contract; and (ii) with respect to perpetual licensed Applications, in the aggregate up to the license fees paid for the perpetual licensed Applications, as defined in Attachment B (Payment Schedule) of this Contract; (iii) plus the total of implementation services fees paid in the event the breach occurs within six (6) months following First Productive Use of the Application(s).
- 2.12.3.2 Any sums paid under Section 2.12.1, Patent and Copyright Indemnity, and Section 2.12.2, Indemnification for All Other Actions, shall not be subject to the limits of this Section. Except for County's intentional and willful violations of SMS's intellectual or proprietary rights, which can be attributed to County management, neither party shall be liable for incidental, consequential, punitive or exemplary damages, regardless of whether either party was advised of the possibility of such damages. SMS shall not be liable for claims caused by Modifications or Adaptations by anyone other than SMS or its agents.
- 2.12.3.3 This Section 2.12.3 states the exclusive remedy for any cause whatsoever against SMS regardless of the form of action, whether in contract or tort, and SMS's entire liability to County is set forth in this Section 2.12.3, or as otherwise expressly provided in this Contract.

## 2.13 Applicable Law and Forum

Except as hereinafter specifically provided, this Contract shall be governed by and construed according to the laws of the State of Washington. Any suit arising herefrom shall be brought in King County Superior Court or the U.S. District Court for the Western District of Washington in Seattle, which shall have sole and exclusive jurisdiction and venue. SMS shall comply with all local, state and federal laws and regulations applicable to this Contract and applicable to the Work and Services provided under this Contract.

## 2.14 Nondiscrimination

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## 2.14.1 Nondiscrimination and Affirmative Action

- 2.14.1.1 King County Code Chapters 12.16 and 12.18 are incorporated by reference as if fully set forth herein and such requirements apply to this Contract; provided however, that no specific levels of utilization of minorities and women in the workforce of SMS shall be required, and SMS is not required to grant any preferential treatment on the basis of race, sex, color, ethnicity or national origin in its employment practices; and provided further that, notwithstanding the foregoing, any affirmative action requirements set forth in any federal regulations, statutes or rules included or referenced in the Contract Documents shall continue to apply.
- 2.14.1.2 During the performance of this Contract, neither SMS nor any party subcontracting under the authority of this Contract, shall discriminate nor tolerate harassment on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation, or the presence of any sensory, mental or physical disability in employment or application for employment, or in the administration or delivery of Services or any other benefits under this Contract.
- 2.14.1.3 SMS will, prior to the commencement of the Work and during the term of this Contract, furnish County, upon request and on such forms as may be provided by County, a report of the affirmative action taken by SMS in implementing the terms of this Section. SMS will permit access by County to SMS's records of employment, employment advertisements, application forms, other pertinent data and records related to this Contract for the purpose of monitoring and investigation to determine compliance with these requirements.
- 2.14.1.4 SMS will implement and carry out the obligations contained in its Attachment D, Affidavit and Certificate of Compliance regarding equal employment opportunity. Failure to implement and carry out such obligations in good faith may be considered by County as a material breach of this Contract and grounds for withholding payment and/or termination of the Contract and dismissal of SMS.
- 2.14.1.5 SMS shall comply fully with all applicable federal, state and local laws, ordinances, King County Executive orders and regulations which prohibit such discrimination. These laws include, but are not limited to, RCW Chapter 49.60 and Titles VI and VII of the Civil Rights Act of 1964.

## 2.14.2 Employment Practices

During the performance of this Contract, neither SMS nor any party subcontracting under the authority of this Contract shall engage in unfair employment practices. It is an unfair employment practice for any:

- 2.14.2.1 Employer or labor organization to discriminate against any person with respect to referral, hiring, tenure, promotion, terms, conditions, wages or other privileges of employment.
- 2.14.2.2 Employment agency or labor organization to discriminate against any person with respect to membership rights and privileges, admission to or participation in any guidance program, apprenticeship training program, or other occupational training program;
- 2.14.2.3 Employer, employment agency or labor organization to print, circulate or cause to be printed, published or circulated, any statement, advertisement or publication relating to employment or membership, or to use any form of application therefore, which indicates any discrimination unless based upon a bona fide occupational qualification;

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- 2.14.2.4 Employment agency to discriminate against any person with respect to any reference for employment or assignment to a particular job classification;
- 2.14.2.5 Employer, employment agency or a labor organization to retaliate against any person because this person has opposed any practice forbidden by King County Code Chapter 12.18, or because that person has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing initiated under the provisions of King County Code Chapter 12.18;
- 2.14.2.6 Publisher, firm, corporation, organization or association printing, publishing or circulating any newspaper, magazine or other written publication to print or cause to be printed or circulated any advertisement with knowledge that the same is in violation of King County Code Chapter 12.18.030.C, or to segregate and separately designate advertisements as applying only to men and women unless such discrimination is reasonably necessary to the normal operation of the particular business, enterprise or employment, unless based upon a bona fide occupational qualification; and/or
- 2.14.2.7 Employer to prohibit any person from speaking in a language other than English in the workplace unless (i) the employer can show that requiring employees to speak English at certain *times* is justified by business necessity, and (ii) the employer informs employees of the requirement and the consequences of violating the rule.

## 2.14.3 Required Submittals

- 2.14.3.1 A contractor entering into a contract or agreement with County valued at \$25,000 or more shall, after proposer receives written notice of selection, submit the following:
  - a) Attachment C, Personnel Inventory Report on the form provided by County;
  - b) Attachment D, Affidavit of Certificate of Compliance Regarding Equal Employment Opportunity demonstrating SMS's commitment to comply with the provisions of King County Code Chapter 12.16.
  - c) A Sworn Statement of Compliance with KCC 12.16 from any labor union or employee referral agency which refers workers or employees or provides or supervises training programs from whom SMS obtains employees.
- 2.14.3.2 County will not execute any agreement or contract without prior receipt of fully executed forms listed in Subsection 2.14.3.1.
- 2.14.3.3 Assistance with the requirements of this Section and copies of KCC Chapters 12.16 and 12.18 are available from the Minority and Women's Business Enterprise and Contract Compliance Division, phone (206) 684-1330.

## 2.15 Nondiscrimination in Subcontracting Practices

- 2.15.1 Compliance with Initiative 200. In accordance with the provisions of Washington Initiative 200, no County Minority and Women Business (M/WBE) utilization requirements shall apply to this Contract. No minimum level of M/WBE Subcontractor participation or purchase from M/WBE certified vendors is required and no preference will be given by County to a bidder or proposer for their M/WBE utilization or M/WBE status. Provided, however, that any affirmative action requirements set forth in any federal regulation or statues included or referenced in the Contract Documents will continue to apply.
- 2.15.2 Non-Discrimination. During the terms of this Contract, SMS shall not create barriers to open and fair opportunities to participate in County contracts and to obtain or compete for contracts and



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subcontracts as sources of supplies, equipment, construction and services. In considering offers from, and doing business with, Subcontractors and suppliers, SMS shall not discriminate against any person on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.

2.15.3 Record-Keeping Requirement. SMS shall maintain, for at least twelve (12) months after completion of all Work under this Contract, records and information necessary to document its level of utilization of M/WBEs and other businesses as Subcontractors and suppliers in this Contract and in its overall public and private business activities for the same period. SMS shall also maintain, for at least twelve (12) months after completion of all Work under this Contract, all written quotes, bids, estimates or proposals submitted to SMS by all businesses seeking to participate in this Contract. SMS shall make such documents available to County for inspection and copying upon request. If this Contract involves federal funds, SMS shall comply with all record keeping requirements set forth in any federal rules, regulations or statutes included or referenced in the Contract Documents.

2.15.4 Open Business Opportunities. County encourages the utilization of minority owned businesses ('MBEs') and women-owned businesses ('WBEs') (collectively 'M/WBEs') in County contracts. County encourages the following practices to open competitive opportunities for M/WBEs:

2.15.4.1 Attending a pre-bid or pre-solicitation conference, if scheduled by County, to provide project information and to inform M/WBEs and other firms of contracting and subcontracting opportunities.

2.15.4.2 Placing all qualified small businesses attempting to do business in King County, including M/WBEs, on solicitation lists, and providing written notice of subcontracting opportunities to M/WBEs and all other small businesses capable of performing the Work, including without limitation, all businesses on any list provided by County, in sufficient time to allow businesses to respond to the written solicitations.

2.15.4.3 Breaking down total requirements into smaller tasks or quantities, where economically feasible, in order to permit maximum participation by small businesses including M/WBEs.

2.15.4.4 Establishing delivery schedules, where the requirements of this Contract permit, that encourage participation by small businesses, including M/WBEs.

2.15.4.5 Providing small businesses including M/WBEs that express interest with adequate and timely information about plans, specifications and requirements of the Contract.

2.15.4.6 Utilizing the services of available community organizations, contractor groups, local assistance offices, King County and other organizations that provide assistance in the recruitment and placement of small businesses including M/WBEs.

Further, County encourages small businesses, including M/WBEs, to participate in the following practices to promote open competitive opportunities:

2.15.4.7 Attending a pre-bid or pre-solicitation conference, if scheduled by County, to receive project information and to inform prime bidders/proposers of contracting and subcontracting capabilities.

2.15.4.8 Requesting placement on solicitation lists, and receipt of written notice of subcontracting opportunities.

2.15.4.9 Utilizing the services of available community organizations, contractor groups, local assistance offices, County, and other organizations that provide assistance in the recruitment and placement of small business and M/WBEs.

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2.15.5 Sanctions for Violations. Any violation of the mandatory requirements of the provisions of this Section shall be a material breach of this Contract for which SMS may be subject to damages and sanctions provided for by Contract and by applicable law.

## 2.16 Requirement During Work

2.16.1 Affidavits of Amounts Paid. Upon completion of all Work and as a condition precedent to final payment, SMS shall submit a final Affidavit of Amounts Paid, identifying amounts actually paid and amounts owed to each Subcontracting firm for performance under this Contract. Failure to submit such affidavits may result in withholding of payments or the final payment. Affidavit forms will be provided by County.

2.16.2 Site Visits. County may, at a mutually agreed time, visit the site of the Work, subject to SMS's policies and procedures for such site visits, and SMS's office to review mutually agreed records related to actual utilization of and payments to Subcontracting firms. SMS shall maintain sufficient records necessary to enable County to review utilization of Subcontracting firms. SMS shall provide requested assistance to County during such visit.

## 2.17 Compliance with Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act

SMS shall complete a Disability Self-Evaluation Questionnaire (included with this Contract as Attachment G) for all programs and services offered by SMS (including any services not subject to this Contract); and shall evaluate its services, programs and employment practices for compliance with Section 504 of the Rehabilitation Act of 1973, as amended ("504"), and the Americans with Disabilities Act of 1990 ("ADA"). SMS shall complete a 504/ADA Disability Assurance of Compliance and shall, within ten (10) days after the bidder receives written notice of selection, submit it to County. Such Assurance of Compliance will be included as Attachment G to this Contract and incorporated herein by this reference.

## 2.18 Conflict of Interest

King County Code Chapter 3.04 is incorporated by reference as if fully set forth herein and SMS agrees to abide by all the conditions of said Chapter. Failure by SMS to comply with any requirements of this Chapter shall be a material breach of this Contract.

2.18.1 SMS covenants that no officer, employee or agent of County who exercises any functions or responsibilities in connection with the planning and implementation of the Statement of Work funded herein, or any other person who presently exercises any functions or responsibilities in connection with the planning and implementation of the Statement of Work funded herein shall have any personal financial interest, direct or indirect, in this Contract. SMS shall take appropriate steps to assure compliance with this provision.

2.18.2 If SMS violates the provisions of Subsection 2.18.1, or does not disclose other interest(s) required to be disclosed pursuant to King County Code Section 3.04.120, as amended, County will not be liable for payment of Services rendered pursuant to this Contract. Violation of this Section shall constitute a substantial breach of this Contract and grounds for termination pursuant to Section 2.3.1, Termination for Default, above, as well as any other right or remedy provided in this Contract or law.

2.18.3 SMS shall complete both Attachment E, Current and Former Employee Disclosure Form and Attachment F, Consultant Disclosure Form.

## 2.19 SMS Dispute Resolution and Mediation

2.19.1 The parties to this Contract may seek to resolve disputes pursuant to mediation as set forth herein, but are not required to do so. Nothing in this Subsection precludes any party from seeking relief from the King County Superior Court.

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- 2.19.2 Disputes. In the event that a dispute arises between County and SMS which cannot be resolved in the normal course, the following dispute resolution procedures shall be followed:
- 2.19.2.1 If a dispute arises, then (i) within ten (10) Business Days of a written request by either party, County's Project Manager, or a designee, and SMS's Implementation Project Manager or Account Executive shall meet and resolve the issue; if these parties cannot resolve the issue within ten (10) Business Days of the meeting, then (ii) the issue shall be submitted to the Management Information Systems Manager for the Seattle-King County Department of Public Health and SMS's Regional Support Manager; if these parties cannot resolve the issue within fifteen (15) Business Days of submission to them, then (iii) the issue shall be submitted for resolution to the Deputy Director, Chief Operating Officer of the Seattle-King County Department of Public Health and SMS's Regional Vice President. In addition, County may withhold any payment owed SMS or prohibit SMS from incurring additional obligations of funds related to the matter in dispute in accordance with the withhold provisions of Section 2.5.2.
  - 2.19.2.2 The time periods herein are in addition to those provided under other provisions of this Contract.
  - 2.19.2.3 This provision shall not apply to claims for equitable relief (i.e., injunction to prevent disclosure of confidential information).
- 2.19.3 Mediation. Any controversy or claim arising out of or relating in any way to this Contract, or the breach thereof, which has not been resolved pursuant to the dispute resolution procedures set forth in Subsection 2.19.2 above, may be settled by non-binding mediation. Such mediation shall be conducted by a mediator who is agreed to by both parties. The parties agree as follows:
- 2.19.3.1 Once either party has submitted a written request for mediation, the parties shall choose a mediator from a list of names produced by both parties of individuals knowledgeable and experienced in the area of computer information systems that are designed for processing healthcare data. Within ten days of receipt of such a list, each party shall notify the other which individuals listed are acceptable as mediators. Counsel for the parties shall agree on a mediator;
  - 2.19.3.2 Mediation must include all parties and claims involving common questions of fact or law whose presence is required to resolve the dispute;
  - 2.19.3.3 The mediator shall be instructed to conduct the proceedings and render a recommendation in the shortest reasonable time;
  - 2.19.3.4 This mediation provision shall not apply to any claim for equitable relief (e.g. an injunction to stop copyright infringement) which any party has relating to this Contract;
  - 2.19.3.5 If the parties so agree, they may exchange with each other memoranda submitted to the mediator setting forth their respective positions with regard to the issues that need to be resolved;
  - 2.19.3.6 The mediator may retain an expert or consultant only with the express agreement of the parties upon terms, conditions and fees agreed upon by the parties;
  - 2.19.3.7 The parties agree to equally share the cost of the mediator; and
  - 2.19.3.8 Information and documents not otherwise in the public domain that are used at or in connection with the mediation shall not be disclosed to third parties by the mediator or the parties without the prior written consent of both parties. Neither the fact that the mediation occurred nor the result of the mediation shall be admissible in evidence in a

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subsequent proceeding brought on the same claims that were presented at the mediation. This Section shall survive termination of the Contract.

## 2.20 Maintenance of Records and Audit Access

### 2.20.1 Maintenance of Records

2.20.1.1 SMS shall maintain accounts and records, including personnel, property, financial and programmatic records and other such records as SMS deems reasonably necessary to ensure proper accounting for all Contract funds and compliance with this Contract. All such records shall sufficiently and properly reflect all direct and indirect costs of any nature expended and Services provided in the performance of this Contract pursuant to generally accepted accounting principles. SMS shall, following reasonable request by County, make available to County properly authenticated documents or other satisfactory proof as to SMS's compliance with Contract requirements. County acknowledges that SMS may maintain these documents and other related items outside of Washington State and that any costs associated with the review of these documents shall be borne by County or other agency requesting the audit.

2.20.1.2 These records shall be maintained for a period of six (6) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14, or unless a longer retention period is required by law.

### 2.20.2 Audits

2.20.2.1 The records and documents with respect to all matters covered by this Contract shall be subject, during regular business hours, to inspection, review or audit by County officials so authorized by law during the performance of this Contract and six (6) years after termination hereof. When commercially practicable, County shall provide SMS with prior written notification of any such inspection, review or audit. If the inspection, review or audit is to be conducted at a time that is not during SMS's regular business hours, County shall pass along to SMS any such prior notification of the audit as it receives from the auditing agency.

2.20.2.2 SMS shall provide, upon mutual agreement, right of access to mutually agreed facilities related to this Contract, subject to SMS's then current policies and procedures regarding such visits which shall be provided at the time of the visit request, including those of any Subcontractor, to County, the state and/or federal agencies or officials at all reasonable times in order to monitor and evaluate the Services provided under this Contract. The Seattle-King County Department of Public Health will give advance notice to SMS, as it receives it, in the case of fiscal audits to be conducted by County.

2.20.2.3 SMS agrees to cooperate with County or its agent in the evaluation of SMS's performance under this Contract and to make available all information reasonably required by any such evaluation process. The results and records of said evaluations shall be maintained and disclosed in accordance with RCW Chapter 42.17.

2.20.2.4 If SMS receives, from County, a total of \$25,000 or more in federal financial assistance during SMS's fiscal year, and SMS is a non-profit organization or institution of higher learning or a hospital affiliated with an institution of higher learning and is, under this Contract, carrying out or administering a program or portion of a program, SMS shall have an independent audit conducted of its financial statement and condition, which audit shall comply with the requirements of GAAS (generally accepted auditing standards), GAO's Standards for Audits of Governmental Organizations, Programs, Activities and Functions and OMB Circulars A-133 and A-128, as amended and as applicable. SMS's receiving federal funds from more than one County department or division shall be responsible for determining if the combined financial assistance is equal to or greater than

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\$25,000. SMS shall provide one copy of the audit report to each County division providing federal financial assistance to SMS by no later than six (6) months subsequent to the end of SMS's fiscal year.

## 2.20.3 Federal Access to Records

Until the expiration of four (4) years after the furnishing of any Service pursuant to this Contract, SMS will make available, upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, copies of this Contract and any books, documents, records and other data of SMS that are necessary to certify the nature and extent of costs incurred by County for such Services. If SMS carries out any of its duties under this Contract through a subcontract with a related organization involving a value or cost of \$10,000 or more over a twelve (12) month period, SMS will cause such subcontract to contain a clause to the effect that, until the expiration of four (4) years after the furnishing of any service pursuant to the Secretary of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, copies of records of said related organization that are necessary to certify the nature and extent of costs incurred by SMS for such service.

## 2.21 Recycled Products Policy

It is the policy of King County to use recycled materials to the maximum extent practicable (King County Code Chapter 10.16). Contractors able to supply products containing recycled materials which meet performance requirements are encouraged to offer them in bids and proposals and to use them wherever possible in the fulfillment of contracts.

SMS shall use recycled paper for the production of all printed and photocopied documents related to the fulfillment of this Contract, but excluding invoices and routine correspondence, whenever recycled paper is available at a reasonable price as defined in the RCW.

If the cost of recycled paper is more than fifteen percent higher than the cost of non-recycled paper, SMS may notify the Contract Administrator, who may waive the recycled paper requirement.

SMS shall use both sides of paper sheets for copying and printing and shall use recycled/recyclable products wherever practical in the fulfillment of this Contract.

## 2.22 Waiver of Default

Both parties recognize that performance of certain provisions of this Contract shall be in accordance with the mutually agreed upon Implementation Workplan. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Contract shall not be construed to be a modification of the terms of the Contract unless stated to be such through written approval by County, which approval shall be attached to the original Contract.

## 2.23 Severability

This Contract constitutes the entire agreement of County and SMS and supersedes all other prior and contemporaneous agreements, understandings and commitments between County and SMS relating to the subject matter herein. The invalidity of any provision of this Contract shall not affect the validity of the remaining provisions, and this Contract shall be construed as if such invalid provision had been omitted. No provision of the Contract may be terminated; modified or waived except as set forth in a written agreement executed by authorized representatives of the parties. No terms and conditions of any County purchase order or SMS invoice shall be effective if they add to or conflict with this Contract.

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## 2.24 Notices

Whenever this Contract provides for notice to be provided by one party to another, such notice shall be in writing. Any time within which a party must take some action shall be computed from the date that the notice is received by said party.

### **To County:**

Jim Stutz, Project Manager  
Public Health - Seattle/King County  
2124 Fourth Avenue  
Seattle, WA 98121  
OR  
A designated alternate

### **To SMS:**

Vice President, Finance  
Shared Medical Systems Corporation  
51 Valley Stream Parkway  
Malvern, PA 19355  
FAX #: (610) 219-3124

### **And to SMS Locally:**

Regional Vice President  
Shared Medical Sys. Corp.  
3055 112<sup>th</sup> Avenue N.E.  
Suite 200  
Bellevue, WA 98004  
FAX #: (425) 828-4345

## 2.25 Key Persons

The following key persons have been identified by County and SMS as essential to the successful completion of the tasks identified in the Implementation Workplan. With respect to the key person(s) identified herein, both parties agree to abide by the provisions of Section 5.2.4.

### Key Persons - County

James A. Stutz, Project Manager  
Lisa Candler, County Project Lead

### Key Persons - SMS

Cheryl Oosthuizen, Account Executive  
Cheryl Hall, Implementation Project Manager

It is SMS's intent to provide continuity of key persons for the installation of the System. Except for changes in personnel due to resignation, termination, promotion, transfers or leaves of absence, SMS will use commercially practicable efforts to maintain the same SMS Key Persons for the installation to which that Project Manager was originally assigned until the completion of the Implementation Workplan or two (2) years from the date of this Contract, whichever is earlier.

Prior to commencing Work under the fixed scope Implementation Workplan, County and SMS shall each have the right to review the qualifications of the other's personnel who will perform installation tasks at County Sites. All County and SMS personnel shall be qualified to perform the tasks assigned to them. Upon receipt by County or SMS of a written request from the other party that it replace, for good cause as specified in the request, any of its employees who perform any of the Work described in this Contract, County and SMS shall discuss a program to resolve the relationship. If the relationship has not been resolved within seven (7) Business Days, the party receiving such notice shall use reasonable efforts to replace such employee, subject to any applicable collective bargaining agreement(s). Neither County nor SMS shall be responsible for delays caused by its timely compliance with this Section. County's payment obligations continue regardless of any such delay. The fixed scope Implementation Workplan shall be modified based on County's or SMS's then-available resources in the event of such delay.

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## SECTION 3 - SPECIFIC CONTRACTUAL TERMS AND CONDITIONS

### 3.1 Contract Documents and Precedence

The documents constituting the Contract between County and SMS are intended to be complementary so that what is required by any one of them shall be as binding as if called for by all of them. In the event of any conflicting provisions or requirements within the several parts of the Contract Documents, they shall take precedence in the following descending order: Change Orders; then the Contract Documents as described in the signed Contract.

Notwithstanding any other provisions of this Contract, the SMS Proposal responses are included by reference as a part of this Contract until the completion of two month-end processing cycles following First Productive Use as follows: the entire SMS proposal and response to Section 4, Technical Requirements; the entire SMS proposal and response to Section 2, Management Requirements; and all of Section 3, Functional Requirements, except those functional requirements to which SMS replied "N" as well as those to which SMS did not respond, i.e., left blank. Section 5, Cost Component, is not included and the parties intend to rely solely on Contract T00834T with respect to cost. Nothing in the above documents shall be deemed to have stated, without limitation, any express or implied promises of System performance, promises of benefits to be achieved, warranties of merchantability or fitness for a particular purpose, nor any other express or implied warranties or guarantees whatsoever, unless such express or implied warranty is stated in Contract T00834T, pages 1 through 114, including Attachments A through T.

### 3.2 Contract Periods

- 3.2.1 This Contract shall commence on the Effective Date.
- 3.2.2 The initial term of the Remote Computing Option (RCO) shall be for a period beginning on the Effective Date of this Contract and ending on December 31, 2000. If the Metropolitan King County Council approves an ordinance for a multi-year contract in accordance with Section 3.2.6, the subsequent terms of the RCO portion of this Contract shall commence on January 1, 2001 and continue for a period of six (6) years.
- 3.2.3 The term of the NOVIUS™ Clinical Manager Remote Computing Option (RCO) shall be for a period beginning on the Effective Date of this Contract and ending on December 31, 2000. If the Metropolitan King County Council approves an ordinance for a multi-year contract in accordance with Section 3.2.6, the terms of the Clinical Manager RCO portion of this Contract shall commence on January 1, 2001 and continue for a period of six (6) years.
- 3.2.4 The term for OPENLink shall be for a period beginning on the Effective Date of this Contract and ending on December 31, 2000. If the Metropolitan King County Council approves an ordinance for a multi-year contract in accordance with Section 3.2.6, the term of the OPENLink portion of this Contract shall commence on January 1, 2001 and continue for a period of six (6) years. The OPENLink software is term-licensed using the Contract term described in this paragraph.
- 3.2.5 Foundation Systems, Inc., (FSI) is a perpetually licensed Application.
- 3.2.6 SMS's and County's obligations to perform under Contract T00834T after December 31, 2000 shall be contingent upon County obtaining on or before September 22, 2000, unless mutually extended, approval of continuation of the Services of this Contract by the Metropolitan King County Council. If County is unable to obtain such approval and provides written notice to SMS, and such notice is received by SMS on or before December 31, 2000, then this Contract shall terminate effective December 31, 2000. If County is able to obtain such approval, and so notifies SMS in writing, received by SMS on or before December 31, 2000, then this Contract shall continue for the Contract Period in accordance with Section 3.2. In the event no notification is received from County by December 31, 2000, the Contract will terminate effective December 31, 2000. In the event of a termination, the fees for Services performed, and related expenses incurred by SMS under this Contract, shall be due and payable thirty (30) days following the

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The provisions of this and Section 3.13, Nondisclosure of Data and Section 3.14, Public Disclosure of Contracts, shall survive any termination under this Section 3.2.

### 3.3 Delivery of Equipment

- 3.3.1 County shall pay shipping and insurance costs for Equipment. SMS shall utilize commercially practicable efforts to utilize the least expensive mode of transportation to ship Equipment to County. If other than the least expensive mode of transportation is required as a result of a delay caused by SMS, SMS shall pay any charges over and above the charge for the least expensive mode of transportation. In the event County purchases Equipment and supplies not defined in Attachment M, Equipment/System Software/Application Software Components, County shall pay normal ground transportation charges (including freight, drayage, rigging and transit insurance) for Equipment acquired from SMS, unless another mode of transportation is requested by County, plus the installation charges invoiced to SMS by supplier of the Equipment, and the charges for cable, disk packs, tapes and other supplies that County may purchase from SMS.
- 3.3.2 County shall bear the risk of loss of, and damage to, the Equipment from all causes whatsoever commencing upon the date the item is physically delivered to County, except to the extent of SMS's negligence.

### 3.4 Guarantee/Warranty

- 3.4.1 SMS warrants that each SMS Application, when operated independently and in combination on the Equipment and Third Party Software as set forth in Attachment M, Equipment/System Software/Application Software Components, shall perform in accordance with the material provisions of its Documentation during the applicable Warranty Period. Following the Initial Warranty Period, this warranty shall be extended for so long as County continues to receive support from SMS under the Support Program included with this Contract as Attachment K.
- 3.4.2 SMS warrants that it shall be responsible for any professional services provided by its Subcontractors in the same manner as SMS is responsible for same pursuant to this Contract.
- 3.4.3 SMS warrants that any Equipment purchased by County from SMS shall be ordered new from SMS's supplier(s) and will include the manufacturer's standard end-user warranty for new Equipment. SMS further warrants that it shall pass through to County all Equipment and applicable Third Party Software manufacturers' assignable end-user warranties. SMS shall cooperate with County in facilitating warranty-related work by such suppliers and manufacturers.
- 3.4.4 Any goods or Services repaired or replaced shall be subject to this Subsection to the same extent as the goods or Services initially provided.
- 3.4.5 If the original parts or Equipment manufacturer provides a greater or extended warranty coverage, County shall receive these increased warranty benefits, provided, however, if there is an additional cost associated with the increased warranty coverage, County must approve the additional cost in advance of receiving the increased warranty benefits.
- 3.4.6 During the term of this Contract, SMS shall reasonably assist County in facilitating meetings or telephone calls relating to resolution of any issues with Equipment and Third Party Software acquired through SMS but supported directly by the manufacturer or supplier, provided County has made reasonable prior efforts to work directly with the manufacturer or supplier. Issues related to Equipment and Third Party Software acquired through SMS and supported through SMS shall be handled directly between SMS and the manufacturer or supplier upon notification to SMS from County.

### 3.5 Express Warranties

- 3.5.1 SMS warrants that it has title to, or the right to grant licenses to, the Applications.



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- 3.5.2 SMS warrants that its license to County, and the performance by SMS of the Services, shall be in compliance with all applicable laws, rules and regulations. Applications shall be in compliance with laws, rules and regulations applicable to SMS as of the date of this Contract.
- 3.5.3 SMS warrants the tapes, diskettes or other media delivered to County to be free of defects in materials and workmanship under normal use for thirty (30) calendar days from the date of receipt by County. During the thirty (30) calendar day period, County may return defective media to SMS and it will be replaced without charge to County.
- 3.5.4 SMS warrants that it has not purposely placed, nor is it aware of, any disabling code or keylock - except for Application limitations on the number of permitted concurrent users where applicable - in the Application, Architectural Software or Custom Programming as delivered to County which would, without County's intervention, alter, destroy or inhibit the Application(s), or County's use of the data or the Application(s), within the scope of any applicable license(s) under this Agreement, nor is it SMS's intention that any subsequently delivered Updates and Releases contain any such disabling code or keylock or provide transactions through any Interfaces with the intent to inhibit use of non-SMS systems.
- 3.5.5 It is SMS's intent to enhance and improve performance of the Application(s) through a stream of Updates, Releases and Versions and not delete or eliminate necessary and documented functionality, as mutually determined, including Custom Programming for which County is paying support. SMS warrants that, except as mandated by regulatory changes, technology changes or other third party requirements, SMS shall use commercially practicable efforts to provide in all material respects the features and functions presently available in the Application(s) through the term of Attachment K, Support Program, included as part of this Contract.
- 3.5.6 SMS warrants that each Interface, when operated on the Equipment and Third Party Software as set forth in Attachment N, Custom Programming, External Interfaces, Conversion Requirements, shall perform materially in accordance with its applicable Specifications during the Warranty Period. SMS shall correct malfunctions and Errors in an Interface at no charge to County, provided County notifies SMS of any failures to meet this warranty within the Warranty Period. This warranty shall be extended for so long as County receives support for such Interfaces under the terms of Attachment K, Support Program herein included.
- 3.5.7 SMS warrants and represents that the SMS-proposed configuration as defined in Attachment M, Equipment/System Software/Application Software Components, and the Interfaces, shall operate together with the Equipment and Third Party Software in accordance with the applicable Documentation and Specifications, and in accordance with the integrated operating efficiency defined in Attachment R, Response Time Warranty.
- 3.5.8 SMS warrants that all Services provided by SMS to County under this Contract shall be performed in a professional, competent and businesslike manner.
- 3.5.9 THE WARRANTIES SET FORTH IN THIS CONTRACT ARE MADE TO, AND FOR THE BENEFIT OF, COUNTY EXCLUSIVELY. THE WARRANTIES SPECIFICALLY SET FORTH IN THIS CONTRACT ARE IN LIEU OF ALL OTHERS, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXCLUDED.

### 3.6 Delivery and Site Responsibilities

- 3.6.1 County shall be responsible for preparing and maintaining the location of the Equipment and communications facilities in accordance with the specifications of the appropriate suppliers. SMS shall deliver and implement, or cause to be delivered and implemented, the Application(s) and other Deliverables at County Sites, or shall prepare for County's use of the Application(s) and the Architectural Software at SMS's Information Services Center ("ISC"), as may be applicable.

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Equipment shall be installed by the assigned party in accordance with the Implementation Workplan. SMS agrees to deliver such items and perform in accordance with the Implementation Workplan. County agrees to permit delivery and perform its responsibilities under the Implementation Workplan and the Documentation.

- 3.6.2 SMS shall provide County with one (1) copy of the current Documentation for the installation, operation and internal support of the Application(s) and Architectural Software, and shall provide County with any revisions to the Documentation during the term of support for the associated Application(s) and Architectural Software, at no additional charge. Upon County's request, SMS shall furnish additional paper copies of any of the Documentation at SMS's then-current rates. SMS will provide County, at no additional charge, with SMS Softcopy Library Documentation (hereinafter "Softcopy") when generally available for each Application. County agrees to establish the required environment and Equipment to implement Softcopy in accordance with Attachment M, Equipment/System Software/Application Software Components. County may print or reproduce Documentation and Softcopy in either machine-readable or printed form, for County's internal use only, in such reasonable quantities as are necessary to operate the associated System. Softcopy and its support are provided at no additional charge under the terms of Attachment K, Support Program.
- 3.6.3 County shall be responsible for all local area networks and wide area networks, if any, required to operate the System(s), as specified by SMS.

## 3.7 Industrial and Hazardous Waste

SMS shall comply with all applicable local ordinances, state and federal statutes, and supporting rules and regulations governing the discharge of industrial waste to a public sewer, private sewer, or side sewer tributary to the metropolitan sewage system.

SMS shall handle and dispose of all SMS-supplied and/or generated hazardous wastes in compliance with the Resource Conservation and Recovery Act, the Washington Hazardous Waste Management Act, and applicable rules and regulations of the Environmental Protection Agency and the Department of Ecology governing the generation, storage, treatment, transportation or disposal of hazardous wastes.

## 3.8 Prohibition on Asbestos-Containing Products

Asbestos-containing products shall not be provided to County under this Contract, unless no practicable alternative for the asbestos-containing product exists and SMS obtains the written consent of County. SMS shall notify County in writing at least thirty (30) calendar days before it plans to supply County with an asbestos-containing product. County shall respond to such notification within ten (10) calendar days of receipt. SMS shall comply with applicable state, federal and local labeling and other laws, regulations and ordinances pertaining to asbestos-containing products, including, but not limited to, the State of Washington Industrial Safety and Health, Act and the federal Occupational Safety and Health Act.

## 3.9 Year 2000 Compliance

- 3.9.1 For the purposes of this warranty, "Year 2000 Compliant" shall mean that, subject to the Associated Date Routine Logic, the SMS-supplied and/or monitored information technology in question accurately processes date/time data, including, but not limited to, calculating, comparing and sequencing date/time data from, into and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, except to the extent that other information technology, which has not been authorized by SMS in writing, used in combination with the SMS-supplied and/or monitored information technology, fails to properly exchange date/time data with it.
- 3.9.2 SMS warrants and represents that the Application(s), and all Updates, Releases, Versions and Custom Programming, shall be Year 2000 Compliant.

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3.9.3 SMS warrants and represents that the Equipment/Application configuration specified in Attachment M is Year 2000 Compliant, based on information obtained by SMS from its suppliers. Such configuration may be subject to change due to changes in Third Party Software suppliers' and/or Equipment manufacturers' Year 2000 status of such items. SMS shall promptly notify County of any such changes that are identified to SMS by the Third Party Software suppliers and/or Equipment manufacturers. County shall be responsible for obtaining and installing such changes. Although SMS is not currently aware of any critical Year 2000 issues with any of the third party items specified by SMS as current requirements (as noted in Attachment M), the vendors may not all have warranted their respective products as Year 2000 Compliant and so the possibility exists that there could be risk associated with their use. In the event that SMS or County learn of significant changes in the Year 2000 status of any required configuration items, each will inform the other. SMS shall be responsible for exploring available, commercially practicable, options in response to such third party changes and communicating those options to County. The warranties and representations in this paragraph are subject to County's participation in the Support Program(Attachment K) and County's continued compliance with Attachment M, Equipment/System Software/Application Software Components.

3.9.4 In addition to all legal and equitable remedies available to County for breach of this paragraph, SMS shall allow County employees or authorized representatives of County to repair, remove or alter Systems which are not Year 2000 Compliant, provided, that SMS shall incur no liability for County's removal or alteration of the Systems.

## 3.10 Disclosure

Pursuant to King County Code 3.04.120, SMS shall file a disclosure statement with the Board of Ethics and the King County Executive, attached hereto as Attachment F.

## 3.11 Escrow Agreement

3.11.1 SMS has entered into a source code escrow agreement with FileSafe, Inc. (d.b.a. SourceFile). SMS has deposited into escrow with SourceFile the source code for all Applications, including Updates, Versions and Releases, identified in this Contract. County will become a party to that escrow agreement by (i) executing the document entitled "Form of Acknowledgment by Beneficiary" attached hereto as Attachment L, Exhibit 1, (ii) sending a copy of same to SMS along with the appropriate annual fee(s) as described on the form, and (iii) sending the original directly to SourceFile at the address shown on the form. Groupings of SMS Applications are identified as "Deposits" on the form. The annual escrow fee listed on the form may be adjusted according to the monthly support fee adjustment provisions of this Contract.

3.11.2 SMS will pay to SourceFile all fees required to establish the escrow relationship and any fees related to source code deposits. County will pay any annual escrow fees and any charges imposed by SourceFile on the release of source code. As of the date of this Contract, the release fee is \$600 per Deposit. If County exercises its rights under the escrow agreement and receives Application source code, such source code shall be a Deliverable under this Contract. In the event that a source code release includes source code for an SMS application which is not licensed under this Contract, County agrees to destroy or return to SMS all such unlicensed property and to certify destruction or return as reasonably requested by SMS.

3.11.3 Any release of source code from escrow shall be subject to the license restrictions and other applicable terms and conditions of this Contract.

3.11.4 Source code to ISC-based RCO Applications and/or term-licensed Applications shall be deemed to be licensed for the respective term of this Contract. In the event that County obtains and pays for a perpetual license for such Applications, then the source code shall be subject to a corresponding perpetual license; except that such perpetual license shall be granted to County without further payment of license fees should SMS fail to perform this Contract due to: (i) insolvency, (ii) a general assignment for the benefit of creditors, (iii) filing of a voluntary petition of bankruptcy, (iv) the

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appointment of a receiver for its business or assets, (v) any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or (vi) winding up or liquidating its business voluntarily or otherwise; and County has compelling reasons to believe that such event(s) will cause SMS to fail to meet its requirements under this Contract, or warranty and maintenance obligations in the foreseeable future.

3.11.5 Any escrowed material furnished under this provision shall be considered licensed, subject to the terms of this Contract, and shall be used solely to maintain or repair the Application(s). County shall be liable for escrow fees.

### 3.12. Events Tracking System

SMS shall provide to County Internet access to SMS's Events Tracking System (EVTS) to enable County to review all known outstanding Errors or other problems in the Application(s).

### 3.13. Nondisclosure of Data

Patient data, and any data identified as confidential, with the exception of data that is publicly available, provided by King County either before or after Contract award shall only be used for its intended purpose. Proposers, vendors, contractors and subcontractors shall neither utilize nor distribute the King County data in any form without the express approval of King County.

### 3.14. Public Disclosure of Contracts and Confidentiality

This Contract shall be considered a public document and will be available for inspection and copying by the public in accordance with RCW 42.17.

3.14.1 Public Disclosure. If SMS considers any portion of the items delivered to King County to be protected under the law, SMS shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If a request is made for disclosure of such portion, County will determine whether the material should be made available under the law. If the material is not exempt from public disclosure law, County will notify SMS of the request and allow SMS ten (10) calendar days to take whatever action it deems necessary to protect its interests. If SMS fails or neglects to take such action within said period, County will release the portions of the Contract deemed subject to disclosure. By submitting a Contract, SMS assents to the procedure outlined in this paragraph and shall have no claim against County on account of actions taken under such procedure.

3.14.2 Confidentiality. Each party shall retain in strict confidence all information and data relating to the other party's business, patients, employees, development plans, programs, Documentation, techniques, trade secrets, systems and know-how, and shall not, unless otherwise required by law, disclose such information to any third party without the other's prior written consent. Upon SMS's request, County shall inform SMS in writing of the number and location of the original and all copies of each of the Deliverables.

3.14.3 County shall have the right to disclose the Deliverables and other SMS information to County's employees, consultants and agents on a need-to-know basis, provided that: (a) all such consultants and agents have entered into a confidentiality agreement with SMS in the form attached hereto as Attachment Q or other such agreement with SMS prior to such disclosure; (b) consultants and agents shall not access the Implementation Methodology (used for development of Implementation Workplans) without first entering into a corresponding license agreement with SMS for use of the Implementation Methodology; and (c) requests by County for SMS to permit a third party to operate the Application(s) on County's behalf and/or requests to permit any competitors of SMS to have access to the Deliverables must receive separate prior written approval from SMS. The information described in this paragraph is subject to public disclosure laws.

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## 3.15 System Configuration

System configuration is primarily the responsibility of SMS. The core Application(s) System shall be configured by SMS. County shall test and accept the System in accordance with the Acceptance Criteria (see Attachment I).

SMS shall not be relieved of its obligation to provide an integrated System if County creates Interface programs, except to the extent of any problems caused by such Interfaces.

## 3.16 Generally Available

All proposed Equipment, Application(s) and associated items should be designated as generally available. Any non-generally available items must be clearly identified as such.

## 3.17 Use of System.

County is solely responsible for using the Application(s), and for the accuracy and adequacy of information and data furnished for processing. County shall have full responsibility for the care and well-being of its patients, and any reliance by County upon the Application(s) shall not diminish that responsibility.

## 3.18 Employment Non-Solicitation.

SMS and County agree not to solicit the employment of the other party's employees during the term of this Agreement, without the express written consent of the other party.

## 3.19 Acceptance

County will perform acceptance testing during the forty-five (45) day period commencing on the Delivery Date of each Application and/or item of Custom Programming, or as otherwise scheduled in the fixed scope Implementation Workplan. As part of such Acceptance, County will complete the validation test(s) specified in the associated Documentation and compare each Application to its respective Documentation to assess County's Acceptance of each Application. County shall compare items of Custom Programming to their respective Specifications. Acceptance testing shall also consist of any and all other tests as County deems necessary and may elect to perform to verify that the functionality and operability of the Applications, Architectural Software and Custom Programming, on the Equipment and with the Third Party Software as specified in Attachment M, Equipment/System Software/Application Software Components, are materially in accordance with the associated Documentation or Specifications, as applicable. All such tests shall be scheduled in the Implementation Workplan and shall include the County tests as specified in Attachment I, Acceptance Criteria, in addition to any other tests County deems necessary. SMS will correct any failure of an Application and/or the Architectural Software to function materially in accordance with its Documentation, and any failure of supported items of Custom Programming to perform materially in accordance with the respective Specifications for which County gives SMS detailed written notice during this test period. Upon receipt by the SMS Implementation Project Manager of such notice, the test period shall be suspended until such time as SMS notifies County that the failure has been corrected, at which time the balance of the test period shall continue. In no event shall County have less than five (5) Business Days for acceptance testing the corrections of identified Errors. An Application will be deemed to have passed Acceptance tests and be Accepted by County at the earlier of (i) the end of the initial test period if no notice of Errors is received by then, or (ii) the end of the correction test period for which no notice of Errors in the corrections is received; and in any event, on First Productive Use of the Application(s).

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### 3.20 Application Substitution

County and SMS agree that County may, at any time during the term of Contract T00834T, deinstall any of the RCO or term-licensed Applications provided under Contract T00834T provided that (i) County substitutes another Application of equal or greater value for the Application implemented or being implemented, and (ii) if the deinstalled Application is required to interact with other Applications and deinstallation affects the functionality or County's use of another Application, SMS shall not be responsible for such lost function or use. County shall be responsible for any additional Equipment necessary to operate the substituted Applications and for any additional costs (including but not limited to Equipment, installation and support) which are necessary to implement the substituted Applications. In no event shall the value of the Contract following Application substitution be less than the initial value of the Contract.

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## SECTION 4 - INSURANCE REQUIREMENTS

### 4.1 Insurance Requirements

4.1.1 By the date of execution of this Contract, with the exception of Workers Compensation, SMS shall procure and maintain for the duration of this Contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of Work hereunder by SMS, its agents, representatives, employees, and/or Subcontractors. The cost of such insurance shall be paid by SMS or Subcontractor. SMS may furnish separate certificates of insurance and policy endorsements for each Subcontractor as evidence of compliance with the insurance requirements of this Contract.

For All Coverages:

Each insurance policy shall be written on an "occurrence" form; excepting that insurance for Professional Liability and Errors and Omissions when required, will be on a "claims made" form.

For coverage on a "claims made" basis, SMS warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than one year from the date of completion of the Work which is the subject of this Contract.

By requiring such minimum insurance coverage, County shall not be deemed or construed to have assessed the risks that may be applicable to SMS under this Contract. SMS shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded or carried as stated under Section 4.1.2, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Contract.

### 4.1.2 Minimum Scope of Insurance

Coverage shall be at least as broad as:

#### 4.1.2.1 General Liability

Insurance Services Office form number (CG 00 01 Ed. 01-96) covering COMMERCIAL GENERAL LIABILITY.

#### 4.1.2.2 Automobile Liability

Insurance Services Office form number (CA 00 01 Ed. 12-93) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the combination of symbols 2, 8 and 9.

#### 4.1.2.3 Professional Liability

Professional Liability, Errors and Omissions coverage.

In the event that Services pursuant to this Contract either directly or indirectly involve or require professional services, Professional Liability and Errors and Omissions coverage shall be provided. "Professional Services", for the purpose of this Contract Section shall mean any services provided by a licensed professional.

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### 4.1.2.4 Workers' Compensation

Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington.

### 4.1.2.5 Employers Liability or "Stop Gap":

The protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement.

### 4.1.3 Minimum Limits of Insurance

The SMS shall maintain limits no less than, for:

4.1.3.1 General Liability: \$6,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$6,000,000 aggregate limit.

4.1.3.2 Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

4.1.3.3 Professional Liability; Errors and Omissions: \$1,000,000/aggregate.

4.1.3.4 Workers' Compensation: Statutory requirements of the State of residency.

4.1.3.5 Employers Liability Stop Gap: \$1,000,000.

### 4.1.4 Deductibles and Self-Insured Retentions

SMS shall be solely responsible for payment of any deductible and/or self-insurance amounts for all policies under this Section 4. Such deductible and/or self-insurance amounts shall not limit or apply to SMS's liability to County.

### 4.1.5 Other Insurance Provisions

The insurance policies required in this Contract are to contain, or if applicable, be endorsed to contain the following provisions:

#### 4.1.5.1 General and Auto Liability Policy(s):

- a. County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of SMS in connection with this Contract.
- b. To the extent of SMS's negligence, SMS's insurance coverage shall be primary insurance as respects County, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by County, its officers, officials, employees or agents shall not contribute with the insurance or benefit the SMS in any way.
- c. SMS's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.



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### 4.1.5.2 All Policies

To the extent resulting from SMS's actions to the policies stated herein, coverage shall not be canceled except by the reduction of the applicable aggregate limit by claims paid, until after thirty (30) calendar days prior written notice has been given to County.

### 4.1.6 Acceptability of Insurers

Insurance is to be placed with insurers with a Bests' rating of no less than A:VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII.

Professional Liability and Errors and Omissions insurance coverage may be placed with insurers with a Bests' rating of B+:VII.

### 4.1.7 Verification of Coverage

SMS shall furnish County with certificates of insurance and endorsements required by this Contract. 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. The certificates and endorsements for each insurance policy are to be on forms approved by County and are to be received and approved by County prior to the commencement of activities associated with this Contract. In the event of a loss or claim, County reserves the right to inspect at a County Site in the State of Washington, jointly with a representative of SMS, a complete, certified copy of each related insurance policy.

### 4.1.8 Subcontractors

SMS shall include all Subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor. Insurance coverages provided by Subcontractors as evidence of compliance with the insurance requirements of this Contract shall be subject to all of the requirements stated herein.

### 4.1.9 Right to Self Insure

In the event such insurance as required by Section 4 is not reasonably available in the commercial insurance markets, SMS may, at its sole option, self insure such exposures. At such time, SMS shall furnish to County audited current financial statements and copies of minutes from the SMS Board of Directors meeting authorizing such self insurance.

# AGREEMENT

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## SECTION 5 - STATEMENT OF WORK

### 5.1 Statement of Work

The Statement of Work shall consist of all of the implementation activities and tasks as identified in the Implementation Workplan as well as the ongoing support responsibilities identified in Attachment K, Support Program. The Statement of Work may also include future activities if County exercises its option to include any of the other optional applications listed in this Section under paragraph 5.5. The following Attachments to this Contract are also included in the Statement of Work:

Attachment K	Support Program
Attachment M	Equipment/System Software/Application Software Components
Attachment N	Custom Programming, External Interfaces, Conversion Requirements
Attachment O	Project Milestones
Attachment P	Change Order Process

### 5.2 Project Assumptions

The ability to successfully complete the SKIL Project and the Statement of Work as defined in Section 5.1 is predicated upon the following assumptions:

- 5.2.1 The Application components listed in Attachment M, plus Custom Programming, external Interfaces and conversion items listed in Attachment N represent the functional baseline for the SKIL project.
- 5.2.2 SMS shall assist County in defining the minimal and optimum Equipment/network configuration required in order for the Application(s) to meet the operational requirements defined in RFP 139-98RLD and the subsequent SMS response document(s).
- 5.2.3 County shall have the option to obtain or lease Equipment through its existing vendor contracts, or may choose to obtain or lease Equipment through SMS as stated in Attachment M, Equipment/System Software/Application Software Components.
- 5.2.4 SMS shall assign a key person (or persons) who shall be on-site at County facilities, as mutually agreed in the Implementation Workplan, to provide continuity, ensure the successful completion of the Application installation, data conversion and user training, and provide general implementation assistance.
- 5.2.5 County shall provide a Core Team of expert staff who will undergo user training provided by SMS. The Core Team shall be subsequently responsible for training County personnel on the functional operation of the Application(s), with assistance from SMS on an 'as needed' basis. SMS shall be reimbursed for such additional assistance according to the terms defined in Attachment B, Payment Schedule, Implementation Services.
- 5.2.6 Project Milestones are included as Attachment O to this Contract.
- 5.2.7 County is responsible for adequate ventilation and MDF which may include air conditioning, vents, etc.
- 5.2.8 The County network will utilize TCP/IP
- 5.2.9 Network management will be provided by County
- 5.2.10 County will provide SMS with a reasonable and appropriate work environment including office space, supplies, telephone, mail and a personal computer on which the SMS Implementation Methodology has been loaded.

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## 5.3 SMS Responsibilities

The following tasks are the responsibility of SMS under the terms of this Contract. Included under each task, where applicable, are the activities and Milestones required to complete the scope of the task. A list of Milestones is included in Attachment O, Project Milestones.

### 5.3.1 Project Management

SMS shall assign an Implementation Project Manager who shall be responsible for maintaining open communication between County and SMS, and who shall coordinate the technical activities of SMS personnel with regard to the SKIL project.

#### Activities:

- 5.3.1.1 Conduct a project kick-off meeting with the SKIL project team, the Project Manager and SMS support personnel.
- 5.3.1.2 Manage the activities of SMS personnel.
- 5.3.1.3 Implement the project approach and procedures, including task assignments and status reporting requirements.
- 5.3.1.4 Prepare, with the Project Manager, a detailed SKIL project plan.
  - a. Identify tasks for both the SKIL project team and SMS
  - b. Develop detailed time estimates of all activities and tasks including dependencies and Milestones
  - c. Maintain the project plan on the SMS Implementation Methodology software tool. Include the following components in the plan:
    - Custom Programming, if applicable
    - External system Interfaces
    - Data conversion
    - User training
    - User acceptance testing
    - Implementation
- 5.3.1.5 Monitor and report on project progress in relation to the project plan.
- 5.3.1.6 Work with the Project Manager to resolve deviations from the project plan.
- 5.3.1.7 Schedule and conduct project status meetings with Project Manager.
- 5.3.1.8 Prepare and submit to Project Manager a bi-weekly status report of activities relative to the project plan.
- 5.3.1.9 Make presentations, as agreed upon by Project Manager and the SKIL Executive Steering Committee ("ESC"), to the ESC, the Executive Sponsor and other County staff as may be designated.
- 5.3.1.10 Review and clarify documents with Project Manager or other County staff as may be appropriate.
- 5.3.1.11 Coordinate with the Project Manager to administer Change Order procedures as described in Attachment P, Change Order Process.
- 5.3.1.12 Help resolve project issues ~~and~~ escalate issues to SMS management as may be necessary and appropriate.

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## Milestones:

1. Bi-Weekly Status Report
2. Implementation Workplan

### 5.3.2 Equipment/Application Installation

SMS shall provide the following services to install the Equipment Server system software and Server hardware as described in Attachment M.

#### Activities:

- 5.3.2.1 Provide assistance to County staff for physical planning, design, installation, and configuration, of all Equipment, System software, and Application software specified in Attachment M
- 5.3.2.2 Test all Equipment and Applications staged by SMS to ensure operation in accordance with the material provisions of the Documentation.
- 5.3.2.3 Reconcile SQL and client access (CA) licenses upon completion of CPENLink configuration
- 5.3.2.4 Provide Novell integration consulting for Signature RCO, OPENLink and FSI.
- 5.3.2.5 Assist County with end-user definitions and setup for security
- 5.3.2.6 Provide assistance with connectivity of Servers to County network infrastructure
- 5.3.2.7 Provide detailed assessment of County technology infrastructure (i.e., desktop, network, and Server) environment

#### Milestones:

1. Verification of Equipment and client and Server software operation
2. Network technology assessment document
3. Connectivity to the SMS ISC.

### 5.3.3 Base Application Installation

SMS shall install the base Application(s) and ensure that it is working according to the material provisions of the Documentation.

#### Activities:

- 5.3.3.1 Install the base Applications (Signature RCO, OPENLink and FSI)
- 5.3.3.2 Run installation verification procedures and review the results with the Project Manager and technical staff

#### Milestones:

1. Base Application(s)
2. Results of verification procedures

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## 5.3.4 Custom Programming, if Applicable

SMS shall create, test and install Custom Programming as identified in Attachment N, Custom Programming, External Interfaces and Conversion Requirements. SMS shall provide Custom Programming documentation which includes technical Specifications, user manuals and operations manuals as applicable.

## 5.3.5 External System Interface Development

SMS shall assist in the development external system Interfaces as identified in Attachment N, Custom Programming, External Interfaces and Conversion Requirements. SMS and County agree that OPENLink will be the standard interface engine. County staff will attend SMS OPENLink training. Specific Interfaces will be determined by County based on priorities, timelines, and implementation requirements.

### Activities:

- 5.3.5.1 SMS will provide 80 hours of on-site technical consulting to assist County staff with development of initial Interfaces.
- 5.3.5.2 SMS/FSI will provide County with written specifications for required FSI Interfaces, to include Signature registration and Signature billing and account reconciliation.

### Milestones

- 1. Eighty hours of support

## 5.3.6 User Acceptance Testing

SMS shall assist County with User Acceptance Testing.

### Activities:

- 5.3.6.1 Assist in the migration of Application(s), including Custom Programming if applicable, and related converted County data into a user acceptance test environment established by County.
- 5.3.6.2 Verify that the user acceptance test environment established by County is adequate for testing purposes.
- 5.3.6.3 Provide technical support to County personnel who are performing User Acceptance Test activities.
- 5.3.6.4 Resolve program Errors and problems found during testing and document all problems on the Problems/Issues Log.
- 5.3.6.5 Participate in Problem Report Status meetings
- 5.3.6.6 Ensure program Errors and problems are resolved in an expeditious manner.

### Milestones:

- 1. Problems/Issues Log

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## 5.3.7 Implementation

### Data Conversion

SMS and County shall mutually develop a data conversion plan. SMS shall assume primary responsibility for converting County data following the completion of data mapping as defined by SMS and completed by County, while recognizing that data conversion will parallel the County phased implementation. SMS shall assist in the development of a phased Implementation Workplan and incrementally implement Applications and Enhancements and load converted data to the appropriate databases.

### Content of Implementation Workplan

SMS and County will jointly prepare a detailed fixed scope Implementation Workplan, consistent with the RFP, utilizing SMS's proprietary Implementation Methodology. The fixed scope Implementation Workplan will include a description of tasks to be performed, the party responsible for each task and scheduled start and completion dates for the tasks. When the fixed scope Implementation Workplan has been mutually agreed to, it will be signed by SMS and County and be deemed a part of this Contract. Changes to the fixed scope Implementation Workplan must be made in writing and signed by the Project Manager and the SMS Implementation Project Manager. SMS will not perform Work beyond the scope of the Work effort specified in the fixed scope Implementation Workplan without County's written authorization. County and SMS are jointly responsible for maintaining the fixed scope Implementation Workplan through the implementation process.

### Pricing Assumptions for the Implementation Workplan

SMS's estimated fees for performing professional service are predicated upon the following assumptions. If any one or more of these assumptions proves materially inaccurate, SMS reserves the right to adjust its estimated fees in Attachment B, Payment Schedule, accordingly to account for such inaccuracy:

- (a) The scope of the tasks performed by SMS will not go beyond those stated in the implementation reports which are attached to the Implementation Workplan and incorporated herein as part of Contract T00834T and which include an implementation methodology assumptions report and/or an implementation staffing report.
- (b) County will perform its assigned tasks required by the fixed scope Implementation Workplan in a timely manner and any vendor(s) whose software is being replaced with Applications hereunder will cooperate and perform necessary tasks in a timely manner.
- (c) Conversions, Interfaces, Adaptations and Custom Programming, travel and living expenses and other professional services are not included in the estimated implementation fee quotes indicated in Attachment B, Payment Schedule.
- (d) The Project Manager or a designee will have overall project direction responsibility, working closely with the SMS Project Manager who will provide technical direction. Decisions which may affect the scope of the project or delay completion will be discussed with the SMS Implementation Project Manager, key County and any consultant executives and any project steering (or similar) committee, which must approve any tasks which may affect the scope of the project or delay scheduled completion in a timely manner. Additional assistance from SMS based on these decisions will be outside of the quoted estimated fees.

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## Activities:

- 5.3.7.1 Assist in the development of a mutually agreed to Implementation Workplan, including tasks, suggested resources and scheduled dates.
- 5.3.7.2 Develop a data conversion plan for converting County data according to the requirements outlined in Attachment N, Enhancements, External Interfaces and Conversion Requirements.
- 5.3.7.3 Design, code and test data conversion programs.
- 5.3.7.4 Provide assistance to County to move the Application(s) into a production environment.
- 5.3.7.5 Convert County data following the completion of SMS-defined data mapping.
- 5.3.7.6 Provide assistance to County to verify the accuracy of the data conversion.
- 5.3.7.7 Provide the completed Application(s), Enhancements and data conversion.

## Milestones:

- 1. Implementation plan
- 2. Data conversion plan
- 3. Converted Data
- 4. Final Application(s), Enhancements and converted master file data

### 5.3.8 Post-Implementation Production Support

SMS shall provide on-site post implementation support as mutually agreed in the Implementation Workplan.

## Activities:

- 5.3.8.1 Provide County with on-site post implementation support assistance as mutually agreed in the Implementation Workplan.
- 5.3.8.2 Escalate the resolution of any unresolved program problems/issues in accordance with Attachment K, Support Program, Section 3.3.

## Milestones:

- 1. A stable production environment for SKIL as defined in the Signature RCO Online Availability Estimate included with this Contract as Attachment T.

### 5.3.9 Ongoing Support

SMS shall provide ongoing support of the Applications during all applicable periods as described in Attachment K, Support Program.

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## 5.4 County Responsibilities

### 5.4.1 Project Manager

The duties of the Project Manager shall include:

- 5.4.1.1 Review the Contract and the Statement of Work with SMS's Implementation Project Manager.
- 5.4.1.2 Monitor and report on the progress of the SKIL project to the Executive Steering Committee (ESC).
- 5.4.1.3 Serve as the interface between County and SMS.
- 5.4.1.4 Manage all phases of the project for County.
- 5.4.1.5 Resolve deviations from the project plan which may be caused by County.
- 5.4.1.6 Obtain and provide information, data, decisions and approvals required by SMS of County in order to proceed with the SKIL project under the terms of this Contract.
- 5.4.1.7 Administer Change Order Process with the SMS Implementation Project Manager.
- 5.4.1.8 Help resolve project issues and escalate issues to the ESC as appropriate.

### 5.4.2 Equipment/Application Installation

- 5.4.2.1 County will provide staff as required to support SMS's activities.
- 5.4.2.2 The Project Manager or a designee will be the point of contact for SMS regarding Equipment Application software and System software.
- 5.4.2.3 Provide ongoing operations and support of County's technology infrastructure after Equipment Application software and System software is accepted by County.
- 5.4.2.4 Prepare and maintain the location of the Equipment to include power, racks, and HVAC.

### 5.4.3 Base Application(s)

- 5.4.3.1 Assist SMS with the installation of base software Applications as required.
- 5.4.3.2 Provide technical staff to assist during Application installation and testing.
- 5.4.3.3 Assist with installation testing of base Application(s) and Enhancements.
- 5.4.3.4 Provide a Core Team to perform user acceptance testing and to train County staff.
- 5.4.3.5 Work with SMS to develop a user training plan and training materials.
- 5.4.3.6 Review proposed user training plans.
- 5.4.3.7 Provide facilities and Equipment for user training.
- 5.4.3.8 Reproduce any necessary training materials.
- 5.4.3.9 Participate in walk-throughs with SMS to review Custom Programming.

### 5.4.4 Custom Programming, if applicable

- 5.4.4.1 Provide SMS with a description of the Custom Programming changes required by County.
- 5.4.4.2 Participate in Custom Programming Specification walk-throughs with SMS.



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- 5.4.4.3 Assist SMS as needed in the preparation of System test data.
- 5.4.4.4 Review and verify Custom Programming test results.
- 5.4.4.5 Approve Custom Programming
  
- 5.4.5 Development of External Interfaces.
  - 5.4.5.1 Provide two County staff persons to attend OPENLink Training
  - 5.4.5.2 Develop Interfaces in accordance with defined priorities.
  - 5.4.5.3 Review and verify test results with SMS.
  
- 5.4.6 User Acceptance Testing
  - 5.4.6.1 Prepare user acceptance test data and test scenarios.
  - 5.4.6.2 Provide a user acceptance test environment.
  - 5.4.6.3 Assign Core Team to conduct user acceptance testing.
  - 5.4.6.4 Review and verify results of tests.
  - 5.4.6.5 Document problems/issues encountered during testing and ensure all problems/issues are entered on the Problems/Issues Log.
  
- 5.4.7 Implementation
  - 5.4.7.1 Assign Core Team to conduct phased user training sessions with technical assistance from SMS.
  - 5.4.7.2 Schedule training resources and training sessions.
  - 5.4.7.3 Assist SMS with the development of the Implementation Workplan and data conversion plan.
  - 5.4.7.4 Review and approve Implementation Workplan.
  - 5.4.7.5 Manage County responsibilities relative to implementation and data conversion.
  - 5.4.7.6 Define, enter and maintain master files and profiles, including but not limited to:
    - Security tables
    - Master files
    - Profiles
  - 5.4.7.7 Identify the sources of data for production data conversion. Provide data mapping in accordance with SMS provided specifications.
  - 5.4.7.8 Review and approve the data conversion plan.
  - 5.4.7.9 Provide technical and user resources necessary for any manual data input for conversion and data clean-up activities as required.
  - 5.4.7.10 Provide full production data files as needed from the existing Public Health Information System (PHIS) and other database systems in a readable format for SMS in support of development, testing and conversion activities.
  - 5.4.7.11 Review the specifications for manual and automated conversion procedures.
  - 5.4.7.12 Assist in the execution and verification of the automated conversion routines and results.
  - 5.4.7.13 Review and approve conversion results.

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5.4.7.14 Prepare the production environment facilities required in order to place the Application(s) into production.

5.4.7.15 With the assistance of SMS, move the final Version of the Application(s) and Enhancements into the production environment.

## 5.4.8 Ongoing Application Support

County shall perform its obligations with regard to ongoing support of the Applications as described in Attachment K, Support Program.

## 5.5 Future System Options

### 5.5.1 NOVIUS™ PEM/Clinical Manager.

County has the option to implement, for the fees identified in Attachment B, Payment Schedule, the PEM/Clinical Manager Application for up to twenty (20) full-time equivalent Care Providers for the term of Contract T00834T, according to Section 3.20, Application Substitution.

### 5.5.2 In-House Computing Option (ICO) for Signature.

County may, at any time during the term of Contract T00834T, exercise the option of converting to the ICO model for Signature, for the remaining term of the Contract, according to Section 3.20, Application Substitution.

### 5.5.3 Physicians Enterprise Manager (PEM) Client/Server Option.

County may, at any time during the term of Contract T00834T, exercise the option of converting to the PEM/Clinical Manager Client/Server option, according to Section 3.20, Application Substitution.

### 5.5.4 Other Optional SMS Applications/Warranties

SAR - Signature Advanced Reporting

HDX - Healthcare Data Exchange

Physician Enterprise Manager (PEM)

- Patient Manager
- Business Manager
- Clinical Manager

PEM RCO Response Time Warranty (when generally available)

Signature ICO (In-House Computing Option)

County shall receive a twenty-two percent (22%) discount off SMS's then-current prices for the Applications listed in this Section when County exercises its option to convert to or install any of the Applications listed in this Section.

**REQUEST FOR PROPOSAL**

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KING COUNTY  
PROCUREMENT SERVICES DIVISION  
620 K.C. ADMIN. BUILDING  
500 - 4<sup>TH</sup> AVENUE  
SEATTLE, WASHINGTON 98104  
(206) 296-4210  
(206) 296-4211 FAX

PROPOSAL NUMBER: 139-98RLD	
PROPOSAL OPENING DATE:	October 22, 1998
TIME: 2:00. P.	
<i>ALL PROPOSALS MUST BE SUBMITTED TO THE PURCHASING AGENCY NO LATER THAN 2:00 P.M. EXACTLY</i>	
BUYER: Roy L. Dodman:eap	
REQUISITION #: 87839	

DATE ISSUED: September 24, 1998

<b>TITLE:</b>	Sea-King Information Links (SKIL) System Project Seattle-King County Department of Public Health
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Sealed bid proposals are hereby solicited and will be received only at the office of the King County Procurement Services Division in Room 620 of the King County Administration Building, 500 Fourth Avenue, Seattle, Washington 98104, for the Sea-King Information Links (SKIL) System Project for the Seattle-King County Department of Public Health (SKCDPH). These services shall be provided to SKCDPH in accordance with the following and the attached instructions, requirements and specifications.

Submittal: The original and one (1) copy of this entire RFP document package shall be signed and submitted in addition to the original and six (6) copies of the proposal response, data or attachments offered. The original shall be noted or stamped "Original."

Proposers are urged to use recycled/recyclable products and both sides of paper for printed and photocopied materials, whenever practicable, in preparing responses to this RFP.

Questions: Proposers will be required to submit any questions in writing prior to the close of business Friday, October 9, 1998, in order to prepare any response required to be answered by Addendum.

**NOTE: INFORMATION WITHIN BORDERED AREA MUST BE COMPLETED AND SIGNED.**

This document can be made available from the ADA Liaison, at (206) 296-4210 or TDD (206) 296-0100, in large print, audio cassette, or Braille

LEGAL NAME OF OFFEROR/CONTRACTOR (PRINT OR TYPE) Shared Medical Systems, Inc.	NAME OF AUTHORIZED REPRESENTATIVE (PRINT OR TYPE) Mike Litke
STREET 3055 112 <sup>th</sup> Ave. N.E., Suite 200	TITLE Regional Vice President
CITY STATE ZIP Bellevue WA 98004	SIGNATURE 
TELEPHONE NUMBER FAX NUMBER 425-827-4455 425-828-4345	KING COUNTY PURCHASING AGENCY

NOV 05 1998

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**ORIGINAL**

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RFP NO: 139-98RLD  
 (To be completed by all Proposers and sent in with Proposal.)

INSTRUCTIONS FOR AFFIRMATIVE ACTION COMPLIANCE  
and  
 MINORITY/WOMEN'S BUSINESS PARTICIPATION ON KING COUNTY CONTRACTS

AFFIRMATIVE ACTION REQUIREMENTS KING COUNTY CODE CHAPTER 12.16

King County Code 12.16 relates to non-discrimination in employment and requires vendors to submit work force data to pre-quality for purchase order or contract award. For a vendor/contractor to maintain a pre-qualified status, personnel employment data must be listed on the Personnel Inventory Report (PIR) when the amount of business placed with the firm will exceed \$25,000 for the year. The code also requires submission of a notarized Affidavit and Certificate of Compliance when orders during any one year period are expected to amount to \$25,000 or more. After the initial submission, a PIR must be updated and resubmitted once every two years. The affidavit remains valid as long as an updated PIR is submitted once every two years.

In order to be eligible for award of this contract, bidders/proposers must have current compliance data on file with the King County Procurement Services Division. If a Personnel Inventory Report form and an Affidavit of Compliance has been included as part of these specifications, the form(s) may be submitted with your bid/proposal. Please contact the King County Procurement Services Division at (206) 296-4210 if you have questions regarding your firm's affirmative action compliance status.

MINORITY/WOMEN'S BUSINESS ENTERPRISE, KING COUNTY CODE CHAPTER 4.18

It is the policy of King County to encourage full and equitable opportunities for minority and woman owned businesses (M/WB). M/WB proposers or M/WBs proposed for utilization on this contract must be certified by the State of Washington Office of Minority and Women's Business, recognized by the King County M/WBE & Contract Compliance Division, and have previously sought to do business within the geographic boundaries of King County, prior to bid submission. All participating M/WBs shall also complete the MWBE Bid Registration Form on the reverse side of these instructions.

Minority/Women's businesses are firms which are certified by the State of Washington Office of Minority and Women's Business Enterprise (OMWBE) and recognized by King County and which have previously sought to do business within the geographic boundaries of King County. Contact the State of Washington Office of Minority and Women's Business Enterprise at (360) 753-9693 for information on MWBE certification procedures.

Is your firm in compliance with King County Affirmative Action requirements?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Do you propose M/WB participation on this contract?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is your firm minority/woman owned?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
COMPANY NAME: <u>Shared Medical Systems</u>	DATE: <u>12/23/99</u>	
SIGNATURE: <u>[Signature]</u> Owner/Authorized Agent	DATE: _____	

The Contract Price for Contract No. T00834T is comprised of costs for the SMS Remote Computing Option (RCO), Foundation Systems, Inc. license fees, Equipment components, Application Software, System software, implementation and professional services, and training.

SMS agrees to sell the specified items of Equipment to County at the prices identified herein. SMS agrees to license the specified Applications and Third Party Software, as well as related software identified herein, at the fees identified herein. SMS further agrees to perform the professional services identified in the Implementation Workplan at the hourly rates identified herein, and to perform such other professional services as County may request at the applicable rates, subject to the rate adjustment provisions in this Contract T00834T.

County shall procure all Equipment identified in this Attachment B as being required for County to obtain, either from its existing resources, from SMS and/or from a third party. Title to any Equipment purchased from SMS shall pass to County upon payment in full of the associated Equipment purchase price. Such title shall be free and clear of all liens and encumbrances, excepting those of parties claiming through County. Prior to the Delivery Date for an item of Equipment and with County's prior approval, which shall not be unreasonably withheld, SMS may substitute another item of Equipment which has at least the equivalent processing, storage, communications, display and/or printing capabilities.

Equipment fees are contingent upon County permitting delivery within twelve (12) months of the date of the corresponding Contract or Change Order. Equipment delivered after this time frame shall be charged at SMS's then-current rates. If, after written order placement by SMS, County solely delays delivery or installation of Equipment, County shall promptly reimburse SMS for all expenses charged to SMS as a result of such a delay and the portion of the fees for such Equipment shall be due and payable on the Equipment's originally scheduled Delivery Date.

**Cost Summary**

The following summarizes the estimated costs for the implementation of the SMS Signature and FSI Pharmacy Systems:

<b>SMS Signature RCO</b>	<b>Purchase Price</b>
• Equipment	\$188,953
• Implementation Services	\$378,595
• Training	\$20,975
• Attachmate or Rhumba 3270 Terminal Emulation for 1075 PCs	Provided by SMS
• MS SQL Client v6.5 for 775 desktops	Provided by County
<b>Sub Total:</b>	<b>\$588,523</b>
<b>Foundation Systems, Inc</b>	
• Equipment	\$20,825
• Implementation Services	\$43,000
• Training	\$12,000
• Interfaces	\$24,000
<b>Sub Total:</b>	<b>\$99,825</b>
<b>TOTAL:</b>	<b>\$688,348</b>

- Note: 1) The above estimated costs do not include vendor travel and living expenses.  
 2) Actual 3270 Terminal Emulation software for 1075 PCs will be provided by SMS at no additional cost and County selection of actual vendor to be in compliance with County Standards

**13972**

**Equipment**

The following is a listing of the Equipment to be obtained by County. A detailed listing of each Equipment component is included in Attachment M, Equipment/System Software/Application Software Components. All Equipment is to be staged and delivered to County in Seattle, Washington.

The Equipment listed below is available for purchase by County through SMS.

<b>SMS Signature RCO</b>	<b>Purchase Price</b>
• Dual Fractional T-1 Router	\$15,937
• VPS/PC and Printstation	\$35,476
• SAA GW	\$50,576
• MS SQL Client 6.5 for 775 desktops	Provided by County
• Attachmate for 1075 PC 3270 Terminal Emulation	Included
• SWIM support & Adaptation Workstation	\$3,653
• SWIM DB Server	\$38,196
• Consolidated Backup Solution	\$10,941
• OPENLink Server	\$34,174
<b>FSI</b>	
• HP Netserver	\$20,825
<b>Total Cost</b>	<b>\$209,778</b>

**Application Software<sup>1</sup>, Software Licenses and Applicable Fees**

SMS will provide the following Applications and applicable support to County at the indicated rates, subject to adjustment as permitted herein:

	<u>License Fee</u>	<u>Interim Use Fee</u>	<u>Monthly Computing Fee</u>	<u>Monthly Extended Support Fee</u>	<u>Wide Area Monthly Network Fee</u>
<b>RCO Applications</b>					
• Signature Version 23	N/A	N/A	\$0.80 / PR <sup>5</sup>	No additional charge	\$9,660
• Signature Windows-based Integration Module (SWIM)	N/A	N/A	\$0.12 / PR <sup>5</sup>	No additional charge	N/A
• NOVIUS™ Clinical Manager V2.3.3 (20 FTE Provider users)	Incl. with Signature RCO	N/A	\$8,000 <sup>3</sup>	No additional charge	N/A
<b>Term-Licensed Application</b>					
• OPENLink V22.2, Level 2	Incl. with Signature RCO	N/A	N/A	\$720 <sup>6</sup>	N/A
<b>Architectural Software</b>					
• OAS/GUI; OLIE; Builder's Edge	Incl. with Signature RCO	N/A	No Charge	No additional charge	N/A

	<u>License Fee</u>	<u>Interim Use Fee</u>	<u>Monthly Computing Fee</u>	<u>Monthly Extended Support Fee</u>	<u>Wide Area Monthly Network Fee</u>
<b>Perpetual Licensed Application</b>					
• Foundation Systems, Inc. (FSI)	\$55,000	N/A	N/A	\$1,500 <sup>2</sup>	N/A
<b>Monthly Computing Fee Credit</b>					
•	N/A	N/A	(\$8,000) <sup>4</sup>	N/A	N/A

- NOTE:
- All Application Software is to be staged by SMS and delivered to County at Seattle, Washington.
  - The Monthly Support Fee begins following completion of Initial Warranty Period. The Monthly Support Fee of \$1,500 is based on an initial total of five (5) Sites at \$300 per Site, and includes the FSI/Signature Interface.
  - The monthly fee is based on \$400 per month per full-time-equivalent Care Provider and is fixed for the term of Contract T00834T.
  - The Monthly Computing Fee Credit begins on the date of First Productive Use of the first RCO Application and is fixed for the term of Contract T00834T.
  - During months one through three of Contract T00834T the Monthly Computing Fee will be \$18,000 (22,500 PR x \$0.80) for the Signature RCO Application and \$2,700 (22,500 PR x \$0.12) for the SWIM Application. During months four through six of Contract T00834T, the Monthly Computing Fee will be \$36,000 (45,000 PR x \$0.80) for the Signature RCO Application and \$5,400 (45,000 PR x \$0.12) for the SWIM Application. The Monthly Computing Fee will be reevaluated at the end of month six following the methodology described in Attachment J, Grant of License, Exhibit C, Remote Computing Option (RCO).
  - Monthly Support Fee begins the first day of the first month following delivery of the Application.

**Professional/Technical/Implementation Services Fees.**

SMS will bill County for the actual number of hours expended by SMS staff to provide implementation services. If SMS proposes off site implementation services activities, other than those specified in the Implementation Workplan, such activities must be pre-approved in writing by the County Project Manager or his/her designee. SMS will provide a detailed list of such off-site activities, deliverables, and time estimates to be approved by County.

Professional , technical and implementation services include the following:

<b>Description</b>	<b>Estimated Hours</b>	<b>Estimated Cost</b>
• Signature RCO - technical services implementation services data conversion (\$5,000 per phase)	Not to Exceed 1600 hrs 6 phases	\$87,595 \$245,000 30,000
• OPENLink - professional services	80 hrs @ \$200/hr	\$16,000
• Foundation Systems, Inc. - technical services implementation services data conversion professional services	Fixed \$1,200/day (as needed)	\$7,000 \$9,000 \$15,000 \$12,000
	<b>Estimated Total</b>	<b>\$421,595</b>

Any costs for travel and living expenses are in addition to the above estimated costs for implementation and professional services.

SMS professional services for other related services which are not included in the Implementation Workplan, and which are mutually agreed to by both parties, shall be billed at the following hourly rates:

Implementation and Application Support - Non-Client Server	\$150
Implementation and Application Support - Client Server	\$200
Integration Specialist/HSC	\$175
Project Management - Non-Client Server	\$200
Project Management - Client Server	\$225
Engagement Manager/Regional Support Mgr./Support Mgr.	\$225
Installation Programming - Non-Client Server	\$175
Installation Programming - Client Server	\$200
Installation Assistance - County Installable Applications	\$225
Custom Programming	\$180
System Engineer	\$225
Network Implementation - Business Hours	\$155
Network Implementation - Overtime	\$200
Network Implementation - Travel	\$155
Network Project Management, Consulting and Design	\$200
Network System Programming	\$210
County Network Support	\$210
Application Consultant	\$190
Physician Consultant	\$300
- On-Site Education	\$2,100/day

These rates are subject to adjustment to SMS' then-current rates for services performed more than six (6) months from the Effective Date of this Contract.

**Travel and Living Expenses.**

Direct costs will be billed at cost without markup, or as revised by applicable legislative action. County shall reimburse SMS for all reasonable travel and living expenses including allowances for incidental expenses such as parking, subject to SMS's then-applicable travel and living policy, and subject to the provisions of the King County Code, chapter 3.24, if applicable. Information regarding current rates can be obtained at the following web site location or through the IRS web site: <http://www.policyworks.gov/org/mt/>

**Training Rates.**

SMS will bill County for on-site training conducted by SMS, using product-experienced and knowledgeable instructors, based on following schedule:

Description	Comments	Fees	Total
Signature RCO	Training estimated to last 10 days	\$1,200/day*	\$12,000
OPENLink	Total cost estimated at \$3,475 for two persons	\$875/1 <sup>st</sup> person \$800/2 <sup>nd</sup> person	\$3,475
OLIE	Total cost estimated at \$2,750 for two persons	\$1,375/person	\$2,750
OAS	Total cost estimated at \$2,750 for two persons	\$1,375/person	\$2,750
Foundation Systems, Inc.	Initial training estimated to last 5 days. Post implementation training estimated to last 5 days.	\$1,200/day*	\$12,000
		<b>Estimated Total</b>	<b>\$32,975</b>

\* Any costs for SMS travel and living expenses are in addition to these fees.



County reserves the right to approve instructor(s) for each training session.

**Custom Programming**

No Custom Programming requirements have been identified. Future Custom Programming requirements will be accommodated through the Change Order process as defined in Section 2.2 of Contract T00834T and in Attachment P, Change Order Process.

Custom Programming shall be provided at SMS's then current rates for Custom Programming.

**Interfaces**

The following Interface requirements have been identified for Foundation Systems, Inc.

Registration; sliding fee scale Interface	\$15,000
NDC Interface	\$6,000
SMS Signature/FSI billing & reconciliation Interface	\$3,000
Estimated Total:	\$24,000

Payment for the cost of Interfaces shall be made according to the following schedule:

- 50% upon delivery of the Interface.
- 50% upon County's Acceptance of the Interface

**Base Data Storage**

Included in the Base PR rate of the Monthly Computing Fee.

**Extra Base Data Storage**

Patients on file	1.5¢ per record/per month
Charges on file	2.5¢ per record/per month
Appointment of file	6.8¢ per record/per month

**Test Data Base**

\$1,000 one-time fee - waived  
\$300 per month - waived

**Payment Schedule**

The following payment milestones relative to the FSI Application have been identified:

- 40% Delivery of Application software
- 40% Acceptance of the Application software and the System
- 20% Upon completion of the second month-end processing cycle after First Productive Use of the FSI Application, including associated balancing routines, in accordance with the applicable Documentation.

The cost for Professional/Technical/Implementation Services shall be billed as incurred.

Effective after First Productive Use of the Signature RCO Application, County will be entitled to a three percent (3%) discount on the monthly processing fees provided full payment of all invoices are received by SMS within twenty (20) calendar days from the date of the invoice. This discount does not apply to hardware, professional

services, WAN fees, professional consulting services, Additional Data Base Storage, special reports, conversion, training or other ISC requested services. County must be current on all invoices due SMS to take advantage of the prompt pay discount during the term of Contract T00834T.

Application support, travel and living expenses, professional services fees, training fees and all other permitted expenses shall be billed monthly in arrears; provided that in the event that County elects to obtain professional services on a fixed scope/fee basis, the parties will negotiate payment metrics associated with same.

### **Final Payment**

Before final payment is made on account for this Contract, SMS shall, if requested by County, furnish acceptable proof of a proper release for all license fees, royalties or the costs of defending claims for the infringement of any patented invention, article, process or method that may be used in performing this Contract.



# Personnel Inventory Report

Attachment

# 13972

Legal name of business Shared Medical Systems Corporation

Telephone No: 425-827-4455

dba (if applicable) \_\_\_\_\_

Street address 3055 112<sup>th</sup> Ave NE City Bellevue State WA

Zip Code 98004

Submitted by: James D. Gillette Title Admin. Oerations Mgr. Date 1/28/99

IRS Employer Identification Number: 23-1704148

Do you have any employees? No \_\_\_ Yes x

If yes, list on the Employment Data Chart below the total number of employees for all businesses located in (1) King County. If none, list the total number of employees for all businesses located in (2) Washington State. If none, list the total number of employees for all businesses located in the (3) United States. Indicate which locale (1,2,3) report covers 1,2. This report covers Business Location(s) in (circle one): (King County) Washington State, Other States] for the Payroll Period ending (Month/Day/Year): 1/31/99

Do any of your employees belong to a union and/or do you use an employee referral agency? No x Yes \_\_\_

If yes, list the unions and/or employee referral agencies with whom you have agreements: N/A. If you expect to do more than \$10,000 worth of public work (construction) or, more than \$25,000 worth of business with King County, the unions or employee referral agencies must submit a statement of compliance with King County Code Chapter 12.16.

Job Categories	Whites		African Americans		Asians		Native Americans		Hispanics		Disabled		Minority Subtotal		Disabled Subtotal	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Managerial	3	2											0	0	0	0
Professional																
Technical	1	1	1										1	0	0	0
Clerical		1		1									0	1	0	0
Sales	2	4											0	0	0	0
Service	9	13											0	0	0	0
Labor																
On-Job Trainees																
Apprentice																
Skilled Craft*																
Subtotal	15	21	1	1									1	1	0	0

\* Journey worker: List by classification on reverse, e.g., carpenter, plumber, etc.

Total number of employees reported above: 38 If no employees, write "0."



# Affidavit and Certificate of Compliance

with King County Code Chapter 12.16, Discrimination and Affirmative Action  
in Employment by Contractors, Subcontractors and Vendors

Attachment D

13972

The undersigned, being first duly sworn, on oath states, s/he is authorized by the Contractor, and on the Contractor's behalf, affirms and certifies as follows:

Definitions: "Contractor" shall mean any contractor, vendor or consultant who supplies goods and/or services. "Contract" shall mean any contract, purchase order or agreement with King County Government, hereinafter called the County.

A. Contractor recognizes that discrimination in employment is prohibited by federal, state and local laws. Contractor recognizes that in addition to refraining from discrimination, affirmative action is required to provide equal employment opportunity. Contractor further recognizes that this Affidavit establishes minimum requirements for affirmative action and fair employment practices and implements the basic nondiscrimination provisions of the general contract specifications as applied to service, consultant, and vendor contracts exceeding \$25,000, or public work contracts exceeding \$10,000. Contractor herein agrees that this Affidavit is incorporated as an addendum to its general contract, and recognizes that failure to comply with these requirements may constitute grounds for application of sanctions as set forth in the general specifications, King County Code Chapter 12.16 ("Chapter") and this Affidavit. PROVIDED FURTHER, that in lieu of this Affidavit, the Executive may accept a statement pledging adherence to an existing contractor affirmative action plan where the provisions of the plan are found by the Executive to substantially fulfill the requirements of the Chapter.

B. Contractor shall give notice to their supervisors and employees of the requirements for affirmative action to be undertaken prior to the commencement of work.

C. This person has been designated to represent the Contractor and to be responsible for securing compliance with and for reporting on the affirmative actions taken:

James D. Gillette

D. Contractor will cooperate fully the M/WBE and Contract Compliance Division and appropriate County agents while making every reasonable "good faith" effort to comply with the affirmative action and nondiscrimination requirements set forth in this Affidavit and in King County Code Chapter 12.16.

E. Reports: The Contractor agrees to complete and submit as required such additional reports and records that may be necessary to determine compliance with the Affidavit and to confer with the County Compliance Officer at such times as the County shall deem necessary. The information required by the Chapter includes but is not limited to the following reports and records:

1. **Personnel Inventory Report:** This report shall include a breakdown of the employer workforce showing race, sex and handicapped and other minority data.
2. **Monthly Utilization Report:** This report shall apply to construction contractors and subcontractors and shall provide the number of hours of employment for all employees, including minority, women and disabled employees by craft and category.
3. **Statement from Union or Worker Referral Agency:** This statement affirms that the signee's organization has no practices and policies which discriminate on the basis of race,

color, creed, religion, sex, age, marital status, sexual orientation, nationality or the presence of sensory, mental or physical disability.

The information required in this section shall be submitted on forms provided by the County unless otherwise specified.

F. **Subcontractors:** For public works projects and contracts over ten thousand dollars (\$10,000) the prime contractor shall be required to submit to the County, along with its qualifying documents under the Chapter, employment profiles, Affidavits and Certificates of Compliance, Reports and Union Statements from its subcontractors in the same manner as these are required of the prime contractor. Reporting requirements of the prime contractor during the contract period will apply equally to all subcontractors.

G. **Employment Goals for Minorities, Women and Persons with Disabilities:** No specific levels of utilization of minorities and women in the workforce of the Contractor shall be required, and the Contractor is not required to grant any preferential treatment on the basis of race, sex, color, ethnicity or national origin in its employment practices. Notwithstanding the foregoing, any affirmative action requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents shall continue to apply.

H. **Affirmative Action Measures:** Contractor agrees to implement and/or maintain reasonable good faith efforts to comply with King County Code Chapter 12.16. The evaluation of a contractor's compliance with the Chapter shall be based upon the contractor's effort to achieve maximum results from its affirmative action measures. The Contractor shall document these efforts and shall implement affirmative action steps at least as extensive as the following:

1. **Policy Dissemination:** Internal and external dissemination of the contractor's equal employment opportunity policy; posting of nondiscrimination policies and of the requirement of the Chapter on bulletin boards clearly visible to all employees; notification to each subcontractor, labor union or representative of workers with which there is a collective bargaining agreement or other contract, subcontract, or understanding of the contractor's commitments under the Chapter. Inclusion of the equal opportunity policy in advertising in the news media and elsewhere.
2. **Recruiting:** Adopt and implement recruitment procedures designed to increase the representation of women, minorities and persons with disabilities in the pool of applicants for employment including, but not limited to establishing and maintaining a current list of minority, women and disabled recruitment sources, providing these sources written notification of employment opportunities and advertising vacant positions in newspapers and periodicals which have minority, women and/or disabled readership.
3. **Self-Assessment and Test Validation:** Review of all employment policies and procedures, including tests, recruitment, hiring and training practices and policies, performance evaluations, seniority policies and practices, job classifications and job assignments to assure that they do not discriminate against, or have a discriminatory impact on, minorities, women and persons with disabilities and validate all tests and

other selection requirements where there is an obligation to do so under state or federal law.

- 4. **Record Referrals:** Maintain a current file of applications of each minority, women and persons with disabilities who are applicants or referrals for employment indicating what action was taken with respect to each such individual and the reasons therefor. Contact these people when an opening exists for which they may be qualified. Names may be removed from the file after twelve months have elapsed from their last application or referral.
- 5. **Notice to Unions:** Provide notice to labor unions of the contractor's nondiscrimination and affirmative action obligations pursuant to King County Code Chapter 12.16. Contractor shall also notify the M/WBE and Contract Compliance Division if labor unions fail to comply with the nondiscrimination or affirmative provisions.
- 6. **Supervisors:** Ensure that all supervisory personnel understand and are directed to adhere to and implement the nondiscrimination and affirmative action obligations of the contractor under King County Code Chapter 12.16. Such direction shall include, but not be limited to, adherence to, and achievement of, affirmative action policies in performance appraisals of supervisory personnel.
- 7. **Employee Training:** When reasonable, develop on-the-job training opportunities which expressly include minorities, women, and persons with disabilities and sponsor and/or utilize, training/educational opportunities for the advancement of women, minorities and persons with disabilities employed by the contractor, subject to acceptance by the county.
- 8. **Responsible Person:** Designate an employee who shall have the responsibility for implementation of the Contractor's affirmative action measures.
- 9. **Progress Reporting:** Prepare as part of the affirmative action plan an analysis and report on the progress made toward eliminating the underrepresentation of minorities, women, and persons with disabilities in the contractor's workforce on

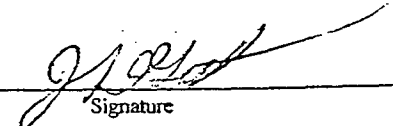
an annual basis.

- I. During the performance of this Contract, neither the Contractor nor any party subcontracting under the authority of this Contract shall discriminate nor tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or the presence of any sensory, mental or physical disability in the employment or application for employment or the administration or delivery of services or any other benefits under this Contract.
- J. Contractor agrees to provide reasonable access upon request the premises of all places of business and employment, relative work undertaken in this Contract, and to records, files, information and employees in connection therewith, to the M/WBE or Contract Compliance Division or agent for purposes of reviewing compliance with the provisions of this Affidavit and agrees to cooperate in any compliance review.
- K. Should the M/WBE and Contract Compliance Division find upon complaint investigation or review, the Contractor not to be in good faith compliance with the provisions contained in this Affidavit, it shall notify the County and Contractor in writing of the finding fully describing the basis of non-compliance. Contractor may request withdrawal of such notice of noncompliance at such time as the compliance office has notified in writing the Contractor and the County that the noncompliance has been resolved.
- L. The Contractor agrees that any violation of any term of this Affidavit, including reporting requirements, shall be deemed a violation of King County Code Chapter 12.16. Any such violation shall be further deemed a breach of a material provision of the Contract between the County and the Contractor. Such breach may be grounds for implementation of any sanctions provided for in the Chapter, including but not limited to, cancellation, termination or suspension, in whole or part, of the Contractor by the County; liquidated damages; or disqualification of the Contractor PROVIDED, that the implementation of any sanctions is subject to the notice and hearing provisions of King County Code Chapter 12.16.110.

Contractor: Shared Medical Systems Corp. Ste. 200 3055 112th Ave., N.E. Bellevue, WA 98004  
 Company Name Street Address City State Zip

I have read and understood the foregoing; and am authorized on behalf of the Contractor to agree to the terms and conditions of this and Affidavit and Certificate of Compliance and therefore, execute the same.

Authorized Signer: James D. Gillette Admin. Ops. Mgr. 425-827-4455  
 Name (type or print) Title Phone



Signature

VALID ONLY IF NOTARIZED

SUBSCRIBED AND SWORN TO BEFORE ME THIS 27<sup>th</sup> DAY OF February, 1999.

Jane K. Mather  
 Notary Public in and of the state of Washington

Residing at: Reston, WASH. King Co.  
Aviation 1211962

13972

CURRENT OR FORMER KING COUNTY EMPLOYEE DISCLOSURE FORM

RFP NO: 139-98RLD

(Submit to King County only when applicable)

1. Identify current or former employees of the County involved in the preparation of this Proposal or the anticipated performance of the work or services to be provided on this contract.

Name of current or former Employee: \_\_\_\_\_

Date of Last Employment with the County: \_\_\_\_\_

2. The Contractor is responsible for notifying the County's project manager of current or former County employees who become involved in the contract any time during the term of the contract:

Name of Firm: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



King County Board of Ethics

KING COUNTY CONSULTANT DISCLOSURE FORM

Pursuant to 3.04.120, this form is to be completed by private consultant firms or individuals entering into contracts with King County to perform studies costing in excess of \$2500. IMPORTANT NOTE: No payment shall be made on any contract with any private consultant firm and/or individual until five days after receipt of this form by the Board of Ethics, E224 King County Courthouse, 516 Third Avenue, Seattle, WA 98104, MS-2C. Both consultant and contracting department are responsible for ensuring compliance with this requirement.

PLEASE TYPE OR PRINT ALL INFORMATION

Today's date: 1/28/99

Consultant's Name: Shared Medical Systems Corporation Amount of Contract: TBD

Address: Suite 200 3055 112th Avenue, N.E. Duration: TBD
Bellevue, WA 98004

Contracting King County Dept. AND Div: Department of Public Health

Type of Services Contracted: SEA-KING Information (SKIL) System Project

1. List the name of any office or directorship in the firm presently held by former King County employees whose employment with the County terminated within the past two years:

Name: None Office/Directorship:
Former County Department: Date Terminated:

2. List any office or directorship in the firm held by any current King County employee:

Name: None Office/Directorship:
County Department:
Name: Office/Directorship:
County Department:

3. List name of current King County employee's spouse or immediate family member holding an office or directorship in the firm:

Name: None Office/Directorship:
Name of County Employee: County Department:
Relationship to Employee (spouse, sister, brother, etc.):
Name: Office/Directorship:
Name of County Employee: County Department:
Relationship to Employee (spouse, sister, brother, etc.):

4. Indicate level of financial interest in the firm by King County employee, his/her spouse or immediate family members:

Name: None Office/Directorship:
Percentage of Stock (if more than 5%): Salary:
Other form of interest in firm (please specify):

5. Indicate whether an officer or director in the firm (whether salaried or unsalaried) is a member of a King County board or commission:

Name: None Office/Directorship:
County Board or Commission:
Name: Office/Directorship:
County Board or Commission:

6. List all other contracts you or your firm have had with King County during the past five years, including the amount of the contract. Attach a separate sheet if necessary.

Type of work or service provided: None
Contract Amount(s):
Duration of Contract(s):
Contracting Department AND Division:

7. Are there any potential conflicts of interest that need to be disclosed? If so, please explain:

None
[Multiple blank lines for explanation]

... continue on an additional sheet if necessary.

ATTESTATION:

I, James D. Gillette, certify under penalty of perjury that this statement is true, accurate, and complete.

[Signature] Administrative Operations Manager
(Signature) (Title)

Signed this 28th day of January, 1999.





### 504/ADA DISABILITY ASSURANCE OF COMPLIANCE

Complying with Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans With Disabilities Act of 1990, two federal laws which prohibit discrimination against qualified people with disabilities.

I understand that federal and state laws prohibit discrimination in public accommodation and employment based solely on disability. In addition, I recognize that Section 504 requires recipients of federal funds (either directly or through contracting with a governmental entity receiving federal funds) to make their programs, services, and activities, when viewed in their entirety, accessible to qualified and/or eligible people with disabilities. I agree to comply with, and to require that all subcontractors comply with, the 504/ADA requirements. I understand that reasonable accommodation is required in both program services and employment, except where to do so would cause an undue hardship or burden.

I agree to cooperate in any compliance review and to provide reasonable access to the premises of all places of business and employment and to records, files, information, and employees therein to King County for reviewing compliance with Section 504 and ADA requirements.

I agree that any violation of the specific provisions and terms of the 504/ADA Disability Assurance of Compliance and/or Corrective Action Plan required herein and Section 504 and the ADA, shall be deemed a breach of a material provision of the Contract between the County and the Contractor. Such a breach shall be grounds for cancellation, termination, or suspension, in whole or in part, of this Contract by the County.

	YES	NO
According to the responses to the questions in the 504/ADA Self-Evaluation Questionnaire, (company name) <u>Shared Medical Systems Corp.</u> is in compliance with 504/ADA.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the above response is no, the following corrective actions will be taken:

#### Corrective Action Plan

The following Corrective Action Plan is submitted to comply with Section 504 and ADA requirements.

Actions To Be Taken	General Requirements	Completion Date



504/ADA DISABILITY ASSURANCE OF COMPLIANCE (cont'd.)

12972

Program Access

Actions To Be Taken	Program Access	Completion Date

Employment and Reasonable Accommodation

Actions To Be Taken	Employment and Reasonable Accommodation	Completion Date

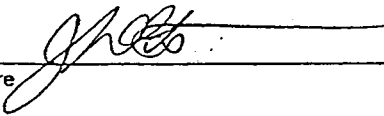
Physical Accessibility

Actions To Be Taken	Physical Accessibility	Completion Date

I Declare Under Penalty of Perjury under the Laws of the State of Washington that the Foregoing is True and Correct.

Contractor: Shared Medical Systems Corporation Ste.200, 3055 112th Ave., N.E. Bellevue, WA 98008  
Company Name Street Address City State Zip

Authorized Signer: James D. Gillette Administrative Operations Manager 425-827-4455  
Name (type or print) Title Phone

Signature 

# ACORD. CERTIFICATE OF INSURANCE

DATE (MM/DD/YY)  
04/12/99

**PRODUCER**

J&H MARSH & MCLENNAN OF PENNSYLVANIA, INC  
TWO LOGAN SQUARE  
PHILADELPHIA, PA. 19103-2797

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW

**COMPANIES AFFORDING COVERAGE**

- COMPANY A LIBERTY MUTUAL FIRE INS CO
- COMPANY B LIBERTY MUTUAL INSURANCE CO
- COMPANY C GULF INSURANCE CO
- COMPANY D NATIONAL UNION FIRE INSURANCE CO

**INSURED**

SHARED MEDICAL SYSTEMS CORP  
51 VALLEY STREAM PARKWAY  
MALVERN PA 19355

**COVERAGES**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> OWNER'S & CONTRACTORS PROT	TB21314504701398	01/15/99	01/15/00	GENERAL AGGREGATE \$ 2,000.0 PRODUCTS - COMP/OP AGG \$ 1,000.0 PERSONAL & ADV INJURY \$ 1,000.0 EACH OCCURRENCE \$ 1,000.0 FIRE DAMAGE (Any one fire) \$ 500.0 MED EXP (Any one person) \$ 5.0
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	AS7131450470149	01/15/99	01/15/00	COMBINED SINGLE LIMIT \$ 1,000.0 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EACH ACCIDENT \$ AGGREGATE \$
C	<b>EXCESS LIABILITY</b> <input checked="" type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM	AU0354008-00	01/15/99	01/15/00	EACH OCCURRENCE \$ 5,000.0 AGGREGATE \$ 5,000.0
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> THE PROPRIETOR PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL	WA213D450470129	01/15/99	01/15/00	STATUTORY LIMITS EACH ACCIDENT \$ 1,000.0 DISEASE - POLICY UNIT \$ 1,000.0 DISEASE - EACH EMPLOYEE \$ 1,000.0
D	<b>OTHER</b> ELECTRONIC DATA PROCESSORS ERRORS & OMISSIONS	8614237	04/11/98	04/11/99	CLAIMS-MADE POLIC \$1,000,000 AGGREGAT \$1,000,000 DEDUCTIB

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS (LIMITS MAY BE SUBJECT TO RETENTIONS)  
 COUNTY, ITS OFFICERS, OFFICIALS, EMPLOYEES AND AGENTS ARE INCLUDED AS ADDITIONAL INSURED AS RESPECTS TO GENERAL LIABILITY, AUTO LIABILITY, AND EXCESS LIABILITY COVERAGES FOR ACTIVITIES PERFORMED BY OR ON BEHALF CONTRACTOR IN CONNECTION WITH THIS CONTRACT.

**CERTIFICATE HOLDER**

KING COUNTY

13972

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

CHRISTOPHER HARKINS

*Christopher Harkins*

This Attachment contains the criteria by which County will determine that specific components of the Statement of Work have been successfully completed by SMS. County has identified eight (8) primary components for which Acceptance criteria have been developed. These components are:

- SWIM Server Installation
- FSI Server Installation
- FSI software Installation
- User Acceptance Testing
- Data Conversion - SMS
- Data Conversion - FSI
- Site Implementation
- OPENLink Installation

If it is determined that SMS has successfully met all criteria for a component, both the Project Manager and the SMS Implementation Project Manager shall sign and date the corresponding Acceptance Criteria form for that component. If one or more criteria have not been met, County shall notify SMS, in writing, of the failed criteria. SMS shall take the necessary steps to remedy the failure.

If it is determined by County that a particular component is no longer required, County shall notify SMS, in writing, that the component has been withdrawn. In that case, SMS shall not be required to satisfy the criteria for that component.

**SWIM Server Installation**  
**Criteria 1**

**Description:** The criteria for this component verifies that the Server hardware and Server system software for the Signature Windows-based Integration Module (SWIM) have been installed and are operating in accordance with the Documentation.

- Criteria:**
- (1) SWIM Server is installed within two (2) weeks of delivery.
  - (2) The Server can be powered up.
  - (3) The operating system is installed.
  - (4) Users can log on to the Server and execute programs.
  - (5) The RAID array is attached to the Server, as appropriate, and images can be copied to the drives.
  - (6) The Application can connect from a PC to the SQL Server Database on the Server.
  - (7) SMS provides one (1) electronic copy (in Word 6.0 or greater format) and one (1) hardcopy of all applicable training and technical Documentation.

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Accepted by County: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

Accepted by SMS: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

**Server Installation - Foundation Systems, Inc. (FSI)**  
**Criteria 2**

**Description:** The criteria for this component verifies that the Server hardware and Server system software for the FSI Pharmacy Application have been installed and are operating in accordance with the Documentation.

- Criteria:**
- (1) The Server(s) installed include:
    - 1 HP Netserver
  - (2) Server(s) are installed according to the mutually agreed upon schedule approved by County and SMS under the Implementation Workplan.
  - (3) The Server(s) can be powered up.
  - (4) The operating system is installed.
  - (5) Users can log on to the Server(s) and execute programs.
  - (6) The RAID array is attached to the Server(s), as appropriate, and images can be copied to the drives.
  - (7) The Application can connect from a PC to the FSI Proprietary Database on the Server(s).
  - (8) SMS provides one (1) electronic copy (in Word 6.0 or greater format) and one (1) hardcopy of all applicable training and technical Documentation.

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Accepted by County: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

Accepted by SMS: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

**Application Software - Foundation Systems, Inc. (FSI)**  
**Criteria 3**

**Description:**

The criteria for this component verifies that the software for the FSI Pharmacy Application has been installed and is operating in accordance with the Documentation

**Criteria:**

- (1) Users can log on to the Application(s).
- (2) Demonstrated capability of the Application to perform the functionality requirements defined in the RFP.
- (3) Demonstrated capability of the Application to perform in a stable production system. A stable production system is defined as the ability to process on-line and batch activity and complete required processing tasks without exhibiting defects which cause serious disruption of use and/or repeated periods of downtime. Failures of components such as network communications, hardware or system software do not constitute failure of the system.
- (4) Demonstrated capability to perform a minimum of 95% of the functionality defined in the Documentation, as mutually agreed by both parties.
- (5) User-defined tables populated.
- (6) SMS provides one (1) electronic copy (in Word 6.0 or greater format) and one (1) hardcopy of all applicable user Documentation.
- (7) Demonstrated capability to create, edit, store and retrieve data.

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Accepted by County: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

Accepted by SMS: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

User Acceptance Testing - Signature RCO Application  
Criteria 4

**Description:**

The criteria for this component verifies that all defined user acceptance test scenarios applicable to the SMS RCO Application have been performed and that the Application meets all of the functionality requirements defined in the RFP.

**Criteria:**

- (1) A test environment is established specifically for user acceptance testing.
- (2) A User Acceptance Test Plan is prepared and agreed to by both parties.
- (3) All user acceptance test scenarios have been performed and the results documented.
- (4) Unexpected test outcomes are documented on a User Acceptance Test Problem Report (included herein as Exhibit A).
- (5) All unexpected outcomes are resolved and/or SMS has submitted a corrective action plan which has been mutually agreed to by both parties.

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Accepted by County: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(print name)

Accepted by SMS: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(print name)



User Acceptance Testing - Foundation Systems, Inc.  
Criteria 5

**Description:** The criteria for this component verifies that all defined user acceptance test scenarios applicable to the Foundation Systems, Inc. Pharmacy Application have been performed and that the Application meets all of the functionality requirements defined in the RFP.

- Criteria:**
- (1) A test environment is established specifically for user acceptance testing.
  - (2) A User Acceptance Test Plan is prepared and agreed to by both parties.
  - (3) All user acceptance test scenarios have been performed and the results documented.
  - (4) Unexpected test outcomes are documented on a User Acceptance Test Problem Report (included herein as Exhibit A).
  - (5) All unexpected outcomes are resolved and/or SMS has submitted a corrective action plan which has been mutually agreed to by both parties.

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Accepted by County: \_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

Accepted by SMS: \_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

**Exhibit A**  
User Acceptance Test Problem Report

Problem No.:		Severity Level: _____ 1 = Critical failure 2 = Major spec mismatch 3 = Minor spec mismatch 4 = Reqmts change 5 = Performance problem
Problem Type:		
Short Description:		
Reported By:		Date:
Verified By:		Date:
UAT #:		Date Tested:
Problem Description:           (Attach screen prints, reports or other documentation which helps describe the problem)		
Assigned To:		Date:
Corrective Action Req'd:		
Disp Code:		
D=data prob. J=JCL corrected P=PGM corrected S=spec chg req'd U=unable to replicate V=reported to vendor W=working		
Corrected By:		Date:
Retest Req'd:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Retest Date:
Tested By:		Results: <input type="checkbox"/> Pass <input type="checkbox"/> Fail

Data Conversion - Signature RCO Application  
Criteria 6

**Description:** The criteria for this component verifies that existing County data has been successfully converted to a useable format for the RCO Application(s).

- Criteria:**
- (1) Data mapping is complete.
  - (2) A data conversion plan is prepared and agreed to by both parties.
  - (3) The conversion of patient demographic data, immunization history, medical record ID number and last encounter date is completed prior to the initial Site implementation.
  - (4) The results of the data conversion have been reviewed and approved by County.
  - (5) Subsequent data conversions, as applicable, are completed and verified prior to each Site implementation.

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Accepted by County: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Accepted by SMS: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

**Data Conversion - Foundation Systems, Inc. (FSI)**  
**Criteria 7**

**Description:** The criteria for this component verifies that existing County data has been successfully converted to a useable format for the FSI Application(s).

- Criteria:**
- (1) Data mapping is complete.
  - (2) A data conversion plan is prepared and agreed to by both parties.
  - (3) The conversion of patient pharmacy profile information, prescription history and allergies/reactions is completed prior to the initial Site implementation.
  - (4) The results of the data conversion have been reviewed and approved by County.
  - (5) Subsequent data conversions, as applicable, are completed and verified prior to each Site implementation.

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Accepted by County: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Accepted by SMS: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
(print name)





ATTACHMENT I  
Acceptance Criteria

13972

Site Implementation - Phase 3  
Criteria 10

**Description:** The criteria for this component verifies each Site is capable of using the Applications in a production mode to complete daily activities.

- Criteria:**
- (1) Specific Site data conversion is complete and the results verified.
  - (2) Pre-implementation services are complete.
  - (3) Users can log on to the Applications and perform daily functions.
  - (4) The Applications run in a sustainable production mode. A stable production mode is defined as a minimum of 95% up-time measured over the course of a normal Business Day from the hours of 7:00 a.m. through 6:00 p.m.. Failures of components such as network communications, hardware or System software do not constitute a failure of the System. However, compatibility between the Software, Equipment and network components is subject to this criteria.

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Accepted by County: \_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

Accepted by SMS: \_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

Site Implementation - Phase 4  
Criteria 11

**Description:** The criteria for this component verifies each Site is capable of using the Applications in a production mode to complete daily activities.

- Criteria:**
- (1) Specific Site data conversion is complete and the results verified.
  - (2) Pre-implementation services are complete.
  - (3) Users can log on to the Applications and perform daily functions.
  - (4) The Applications run in a sustainable production mode. A stable production mode is defined as a minimum of 95% up-time measured over the course of a normal Business Day from the hours of 7:00 a.m. through 6:00 p.m.. Failures of components such as network communications, hardware or System software do not constitute a failure of the System. However, compatibility between the Software, Equipment and network components is subject to this criteria.

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Accepted by County: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Accepted by SMS: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
(print name)



Site Implementation - Phase 5  
Criteria 12

**Description:** The criteria for this component verifies each Site is capable of using the Applications in a production mode to complete daily activities.

- Criteria:**
- (1) Specific Site data conversion is complete and the results verified.
  - (2) Pre-implementation services are complete.
  - (3) Users can log on to the Applications and perform daily functions.
  - (4) The Applications run in a sustainable production mode. A stable production mode is defined as a minimum of 95% up-time measured over the course of a normal Business Day from the hours of 7:00 a.m. through 6:00 p.m.. Failures of components such as network communications, hardware or system Software do not constitute a failure of the System. However, compatibility between the Software, Equipment and network components is subject to this criteria.

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Accepted by County: \_\_\_\_\_ Date: \_\_\_\_\_  
(print name)

Accepted by SMS: \_\_\_\_\_ Date: \_\_\_\_\_  
(print name)

**Site Implementation - Phase 6**  
**Criteria 13**

**Description:** The criteria for this component verifies each Site is capable of using the Applications in a production mode to complete daily activities.

- Criteria:**
- (1) Specific Site data conversion is complete and the results verified.
  - (2) Pre-implementation services are complete.
  - (3) Users can log on to the Applications and perform daily functions.
  - (4) The Applications run in a sustainable production mode. A stable production mode is defined as a minimum of 95% up-time measured over the course of a normal Business Day from the hours of 7:00 a.m. through 6:00 p.m.. Failures of components such as network communications, hardware or System software do not constitute a failure of the System. However, compatibility between the Software, Equipment and network components is subject to this criteria.

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Accepted by County: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

Accepted by SMS: \_\_\_\_\_  
\_\_\_\_\_  
(print name)

Date: \_\_\_\_\_

**OPENLink Installation**  
**Criteria 14**

**Description:** The criteria for this component verifies that County is able to establish Interface links between a variety of software applications.

- Criteria:**
- (1) OPENLink software is installed and operational.
  - (2) Users have received sufficient training to use OPENLink.
  - (3) SMS has provided, at a minimum, eighty (80) hours of on-site technical support.
  - (4) SMS has supplied one (1) electronic copy (in Word 6.0 or greater format) and one (1) hardcopy of all applicable Documentation.
  - (5) OPENLink Interface engine provides the required capability to establish Interface links between applications as defined in Attachment N.
  - (6) County has been able to successfully establish a minimum of twelve (12) Interfaces with other software applications.

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Accepted by County: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

(print name)

Accepted by SMS: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

(print name)

1. Grant of License.

This Attachment provides the grant of license for the applicable SMS-supplied Deliverables and is subject to the terms and conditions of Contract T00834T.

1.1 SMS grants to County a non-exclusive license to use one (1) copy of object code for each perpetual-licensed Application and term-licensed Application during their associated term, and their related Deliverables, to be operated at County's data processing location by County's employees for the sole purpose of processing data of the County Sites and Care Providers indicated in Exhibit A of this Attachment. Each license granted herein shall be either perpetual or for a term, as indicated in Exhibits B and C of this Attachment. Notwithstanding the one-copy license indicated above, where the Application is indicated as being licensed for a specific number of installed workstations or Servers, as applicable, such number indicates the maximum number of Providers that may use the Application or for which the Application may be used by County. Where the Application is indicated as being licensed for a specific number of concurrent users, such number indicates the maximum number of users permitted to use such Application concurrently and such Application may contain embedded controls limiting user logon to the number of concurrent users licensed. For an Application which by its nature is PC-based, if no restriction for concurrent users or workstations or Servers is indicated, then County may make no more than two thousand (2000) copies of such Application. County may increase this amount, without incurring further cost, as is reasonable and necessary.

1.2 County may make a reasonable number of backup copies (not to be concurrently used for active data processing) of each Application, to be used solely for backup, emergency and/or testing purposes by County. County shall not disassemble, decompile or otherwise reverse-engineer any of the Deliverables. County shall be responsible for compliance with Contract T00834T by all of County's users granted access hereunder. County shall not transfer its license nor sub-license the Deliverables, except that this Contract may be assigned by County pursuant to the assignment provisions of Contract T00834T.

1.3 With regard to Adaptations, SMS and County shall work together to identify efficiency issues which may be improved by changes to County's operational procedures, screen logic, pathways, data base access, etc. County is responsible for any System degradation as a result of any Adaptations implemented by County.

1.4 SMS or its suppliers shall have the exclusive title to, copyright and trade secret right in, and the right to grant additional licenses to, the Application(s) and related Deliverables. County shall not remove or permit to be removed from any of the Deliverables (and shall include on any copies or partial copies thereof) any identifying mark or indicia of SMS's or other supplier's rights in such item. If SMS incorporates the programs of any other suppliers in the Application(s), those suppliers shall be entitled to the benefit of the obligations incurred by County in this Section and in Section 3.16, Public Disclosure of Contract, of Contract T00834T. Third Party Software provided by SMS may have license restrictions on the number of concurrent users and other qualifying terms and conditions.

1.5 Attachment M, Equipment/System Software/Application Software Components, contains the sizing and capacity assumptions and the Equipment and Application configuration for County. The configuration is based on, and limited to, use of the Version of the Application(s) listed in Attachment M within the operating context described in the assumptions.

**ATTACHMENT J**  
Grant of License

**13972**

EXHIBIT A  
County Sites/Care Providers

1. Signature RCO

This Signature RCO grant of license shall initially apply to the County Sites listed below.

SITES:

Alder Square Public Health Center 1404 S Central Avenue, Suites 101, 111, 112 Kent, WA 98032	Kent Teen Clinic 613 W Gowe Kent, WA 98032
Auburn Public Health Center 20 Auburn Avenue Auburn, WA 98002 -	North Public Health Center 10501 Meridian Avenue North Seattle, WA 98133
Central Area Health Center 2101 E Yesler Way Seattle, WA 98122	North Rehabilitation Facility 2002 NE 150 <sup>th</sup> Shoreline, WA 98155
Columbia Public Health Center 4400 37 <sup>th</sup> Avenue South Seattle, WA 98118	Northshore Public Health Center 10808 NE 145 <sup>th</sup> Street Bothell, WA 98011
Community-Oriented Primary Care (COPC) First Interstate Center 999 Third Avenue, Suite 1200 Seattle, WA 98104	Northwest Family Center 1001 Broadway Avenue, Suite 105 Seattle, WA 98122
Division of Alcohol and Substance Abuse (DASAS) First Interstate Center 999 Third Avenue, Suite 900 Seattle, WA 98104	Prevention Division Administration First Interstate Center 999 Third Avenue, Suite 900 Seattle, WA 98104
Downtown Public Health Center 2124 Fourth Avenue Seattle, WA 98121	Renton Public Health Center 3001 NE Fourth Street Renton, WA 98055
Eastgate Public Health Center 14350 SE Eastgate Way Bellevue, WA 98007	Seattle-King County Public Health Laboratory Harborview Medical Center 925 Ninth Avenue, BWC03 Seattle, WA 98104
Federal Way Public Health Center 33431 13 <sup>th</sup> Place South Federal Way, WA 98003	Sexually Transmitted Disease Program and Clinics Harborview Medical Center 325 Ninth Avenue Seattle, WA 98104
HIV/AIDS Program 1001 Broadway, Suite 218 Seattle, WA 98122	Tuberculosis (TB) Clinic Harborview Medical Center, Ground floor, E. Wing 325 Ninth Avenue Seattle, WA 98104
Jail Health Services-King Cty Correctional Facility 500 Fifth Avenue, 6W Seattle, WA 99104	White Center Public Health Center 10821 8 <sup>th</sup> SW Seattle, WA 98146
Jail Health Services-Regional Justice Center 620 W James Street Kent, WA 98032	

13972

2. NOVIUS™ PEM/Clinical Manager

NOVIUS™ PEM/Clinical Manager is licensed for use by County to process data on behalf of no more than the number of full time equivalent Care Providers indicated below.

CARE PROVIDERS (up to 20 FTEs - TBD)

2.1 When County approves the implementation of the PEM/Clinical Manager option as described in Section 3.20, Application Substitution, County shall be responsible for all associated costs for professional services, additional Equipment and Third Party Software, as described in Attachment B, Payment Schedule, for use by the Care Providers.

2.2 County may add or reduce the number of Care Providers throughout the term of Contract T00834T. County shall report all such additions or reductions of Care Providers to SMS on a quarterly basis by providing SMS with a complete list of all Care Providers whereupon the Monthly Computing Fee shall be adjusted to reflect the change.

2.3 When County adds additional Care Providers, County shall be responsible for all associated costs for professional services, additional Equipment and Third Party Software for use by the Care Providers. SMS shall provide a recommended Equipment schedule based on input from County to support the addition of such Care Providers.

3. Foundation Systems, Inc. (FSI)

3.1 The FSI grant of license shall initially apply to the pharmacy program at the County Sites listed below:

Columbia Public Health Center 4400 37 <sup>th</sup> Avenue S Seattle, WA 98118	Jail Health Services-Regional Justice Center 620 W James Street Kent, WA 98032
Downtown Public Health Center 2124 Fourth Avenue Seattle, WA 98122	North Public Health Center 10501 Meridian Avenue N Seattle, WA 98133
Jail Health Services-King Cty Correctional Facility 500 Fifth Avenue, 6W Seattle, WA 98104	

3.2 Fees for the FSI Support Program shall be based on the number of open pharmacy Sites. County may add or reduce pharmacy Sites throughout the term of Contract T00834T. County shall report all such additions or reductions to SMS on a quarterly basis by providing SMS with a complete list of all pharmacy Sites. If the net result in the addition/reduction of pharmacy Sites is an increase in the number of pharmacy Sites over and above five (5) Sites, County shall be assessed additional software license and monthly support fees in accordance with Attachment B, Payment Schedule. If the net result is a decrease in the number of pharmacy Sites, the monthly support fees shall be reduced accordingly.

EXHIBIT B  
Perpetual License

1. Term

1.1 Perpetual License. The term of the license for the Application(s) identified in this Exhibit B shall be perpetual, subject to the terms and conditions of this Contract:

- Foundation Systems, Inc.

1.2 Initial Warranty Period and Terms of Support. The Initial Warranty Period for the perpetual-licensed Application(s) shall be for a period of twelve (12) months commencing on the first day following the First Productive Use of the Application in a production mode at a Site. Following the Initial Warranty Period, support for the Application(s) identified in this Exhibit B shall be provided in accordance with Attachment K, Support Program. Support is included at no additional charge during the Initial Warranty Period. Thereafter, continuing support for the Application shall continue as provided in accordance with Attachment K, Support Program.

2. Applications

County shall pay the fees and other amounts described in Attachment B, Payment Schedule for the perpetual-licensed Applications.

EXHIBIT C  
Remote Computing Option (RCO)

1. Term

The term of the license for the Application(s) identified in this Exhibit C shall be term-licensed, subject to the terms and conditions of Contract T00834T.

2. Applications

County shall pay the fees and other amounts described in Attachment B, Payment Schedule for the RCO and term-licensed Application(s) identified therein:

- Signature V23
- OPENLink, V22.2, Level 2
- NOVIUS™ PEM/Clinical Manager V2.3.3 or greater

3. Remote Computing Option and Other Applications

SMS shall process County data on the System proposed by SMS, and as selected by County, in accordance with the Documentation. County shall pay the associated monthly fees indicated in Attachment B, Payment Schedule, in accordance with the applicable terms and conditions of Contract T00834T. County agrees to take delivery of the Application(s) listed in Attachment M, Equipment/System Software/Application Software Components, as mutually agreed by both parties in the Implementation Workplan.

4. Monthly Wide Area Network Services Fees

4.1 A Wide Area Network ("WAN") shall be established between County location(s) for data processing and the SMS ICS. County shall purchase or lease from SMS the modems, CSUs and/or routers identified in Attachment M, Equipment/System Software/Application Software Components. SMS shall lease the modems, CSU's and/or NSU's so indicated in Attachment M to County during the term of the Remote Computing Option hereunder. The monthly wide area network services fee or ("WAN Fee") includes maintenance to keep the SMS provided modems, CSU's and routers listed in Attachment M in good working order during proper usage. County shall grant SMS such access to County Site(s) as is reasonably adequate for SMS to provide such services.

4.2 The monthly wide area network services fee ("WAN fee") shall commence on the date the supplier activates the long haul service to a County Site. County shall pay supplier's installation fees. The WAN fee is based on the Network Service Unit ("NSU") levels and capacities identified in Attachment M, Equipment/System Software/Application Software Components, and consists of SMS network services connecting County location(s) and the ISC and other processing centers, as appropriate, the leasing, if applicable, and maintenance of the modems, CSUs and routers, communication network management services and the coordination of the long haul communications services with the supplier on County's behalf. County shall be responsible for all wide area and local area networks required to operated the Systems(s), as specified by SMS. The WAN fee is as indicated in Attachment B, Payment Schedule,

4.3 If the System configuration specified in Attachment M, Equipment/System Software/Application Software Components is changed or enhanced, SMS may increase the monthly WAN fee to reflect SMS's then-current rates for required additional Network Service Units. County agrees to install required enhancements. Backup long haul communications services shall be paid by County to the supplier.

5. Commencement of Fees

5.1 RCO Application(s) and Data Storage



The Monthly Remote Computing Fee as identified in Attachment B, Payment Schedule, for an Application, related Base Data Storage and Extra Base Data Storage shall commence on First Productive Use of that Application.

5.2 Term-Licensed Applications

The monthly term license fee for all term-licensed Applications shall be as defined in Attachment B, Payment Schedule.

6. Monthly Remote Computing Fees

6.1 Signature RCO

6.1.1 During the first three (3) months following First Productive Use of the Signature RCO Application(s), the total Monthly Remote Computing Fee shall be based on a County Processing Requirement ("PR") of 22,500 PRs per month. For the fourth month following First Productive Use, the Base Rate shall automatically increase to 45,000 PRs per month and shall continue for months five and six. SMS shall re-evaluate the County Base PR Rate at the end of the sixth month following First Productive Use and set the annual Base Rate for the next twelve (12) month period based on the average PR rate of months four, five and six following First Productive Use. SMS shall provide to County a monthly report on County's actual PRs.

6.1.2 Eighteen (18) months from First Productive Use and at the end of every successive twelve (12) month period thereafter, SMS shall review the actual Signature PR of County for the previous twelve (12) months. If, during this twelve (12) month period, the actual monthly Signature PR average increases or decreases by more than ten (10) percent from the Signature Base PR listed above, SMS shall increase or decrease the total Monthly Remote Computing Fees, related Base Data Storage values and the Signature PR for the next successive twelve (12) month period by the total percentage increase or decrease in such PR. For each subsequent twelve (12) month period, SMS shall adjust the total Monthly Remote Computing Fee on the same basis using the last adjusted Signature PR as base. If County's PR exceeds such Base PR by more than twenty percent (20%) during any month, County will be billed at a rate which is based on County's calculated monthly fee per Signature PR for that month's excess Signature PRs which is over one hundred twenty percent (120%) of the Base PR. If County's Signature PRs are less than eighty percent (80%) of the Base Signature PR during any month, County shall receive a credit (at the same monthly fee per PR) in an amount equal to the percentage difference in actual usage and eighty percent (80%) of the Base PR, except that County shall not receive credit for any decrease less than 2,000 PRs.

6.1.3 The Monthly Remote Computing Fee for any Signature Applications that achieve First Productive Use subsequent to the first adjustment period as stated above, shall be adjusted to reflect any increases or decreases in the actual Signature PR made since the date of this Agreement.

6.1.4 During the term of Contract T00834T, as defined in Section 3.2, Contract Period, County shall have the right to add or reduce Sites, Care Providers and/or programs provided that:

(a) County provides SMS with written notice of its intention to add or reduce Site(s), Care Providers and/or programs;

(b) upon SMS's receipt of County's notice of its intention to add or reduce Sites, Care Providers and/or programs, County shall either commence paying to SMS, or shall receive a reduction from SMS in, the incremental Monthly Remote Computing Fee in accordance with the applicable provisions of this Contract. The increase or decrease in the incremental Monthly Remote Computing Fee shall be calculated using the Signature Processing Requirements (PR) formula and applying the resulting PR to the then-current rates per PR under Contract T00834T for the Signature Applications listed in this Exhibit C, and any associated support fees;

(c) County shall be responsible for all professional services, additional equipment and operating software for use by County Sites, and any support and maintenance which may be required to process additional County data;

(d) SMS shall be allowed access to data processing management and end-users or department management on an ongoing basis to review System utilization;

(e) SMS shall provide a new recommended Equipment schedule based on input from County to support the addition of Site(s), Care Providers and/or programs;

(f) County shall be responsible for any payments due relating to the addition of Site(s), Care Providers and/or programs, and for compliance with the terms and conditions of Contract T00834T ; and

6.1.5 At the end of the Contract term, County shall be billed or credited for any increase or decrease in the PR and shall be billed for any Additional Base Data Storage usage during the last twelve months of the year.

## 6.2 Extra Base Data Storage

6.2.1 Extra Base Data Storage fees will be charged for data storage usage above the Base Data Storage, if any, listed in Attachment M, Equipment/Application Software/System Software Components. SMS will provide County with a monthly report on data storage usage beginning the month after First Productive Use of the Application.

6.2.2 On each anniversary of First Productive Use of the first Application, SMS shall review the actual monthly data storage usage for each Application over the previous twelve (12) months. County will be billed monthly over the subsequent twelve (12) month period at SMS's then-current rates for Extra Base Data Storage for all of the Applications based on the average monthly Extra Base Data Storage usage for each Application during the prior twelve (12) months, however, such adjustment shall not decrease the Base Data Storage listed in this Exhibit. For each subsequent twelve (12) month period, SMS shall calculate the Extra Base Data Storage fees on the same basis. If County's actual data usage exceeds the Base Data Storage listed in this Exhibit by more than twenty percent (20%) during any month, County will be billed at SMS's then-current rates for Extra Base Data Storage for that month's excess data storage usage which is over one hundred twenty percent (120%) of the Base Data Storage. County will be charged for data storage usage that is in addition to any excess usage which is associated with increased PRs as provided above.

6.2.3 At the end of the Contract term, County shall be billed or credited for any increase or decrease in the PR and shall be billed for any Extra Base Data Storage usage during the last twelve months of the year.

## 6.3 Ad Hoc Reports

County shall receive a monthly allowance of 625 Ad Hoc Reports (Base Ad Hoc Report Allowance). On each anniversary of First Productive Use of the first Application, SMS shall review the actual monthly Ad Hoc reports utilized for each Application over the previous twelve (12) months. If during this twelve (12) month period the actual monthly Ad Hoc Report utilization average increases or decreases by more than ten percent (10%) from the Base Ad Hoc Report Allowance, SMS shall increase or decrease the total Monthly Remote Computing Fee at SMS's then-current rates for additional Ad Hoc Reports (currently \$2.50 per report) and shall establish a new Ad Hoc Report Allowance for the next successive twelve (12) month period based on the prior year's usage, except that the Ad hoc Report Allowance shall not be reduced below the Base Ad Hoc Report Allowance. If County's utilization of Ad Hoc Reports exceeds the Ad Hoc Report Allowance by more than twenty percent (20%) during any month, County will be billed at SMS's then-current rates for that month's excess report usage which is over twenty percent (20%) of the allowance.

## 6.4 CPI

All Monthly Remote Computing Fees, monthly term license fees and the wide area network services fees may be increased by SMS once in any twelve (12) month period on thirty (30) days notice by the previous calendar year's percentage increase in the U.S. Department of Labor Consumer Price Index, All Urban

Consumers ("CPI"); however, no such adjustment shall be made in the first eighteen (18) months following the Effective Date of Contract T00834T.

7. Miscellaneous

For Applications operated from the ISC, upon County's request, SMS shall furnish to County data files with file layouts at SMS's then-current rates or as otherwise negotiated by the parties. For Applications operated from the ISC, upon implementation of each Application, SMS shall be the sole provider to County of the Application functions for the term of Contract T00834T.

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1. Term.

The term of the Support Program for the Remote Computing Option (RCO) and OPENLink begins on the Delivery Date of the Applications and shall continue from year to year as described in Contract T00834T, Section 3.2, Contract Period. The monthly support fees for the RCO and OPENLink begin on the Delivery Date of the Applications.

The term of support for Foundations Systems, Inc. (FSI) begins following the completion of the Initial Warranty Period as described in Attachment J, Grant of License, Exhibit B, Perpetual License, of Contract T00834T, and shall continue from year to year as described in Contract T00834T, Section 3.2, Contract Period. The monthly support fees for FSI begin following the completion of the Initial Warranty Period.

2. Application Support

SMS shall supply the support services described herein. SMS service and support maintenance responsibilities include:

2.1 To correct, at no additional charge to County, the failure of the Application(s) and supported Interfaces, including the FSI/Signature and Signature/PEM Interfaces, to perform in material accordance with the Documentation and the Specifications, as applicable. Time spent on warranty and non-warranty support activities will be calculated in minimum time increments of one-half (1/2) hour.

2.2 Provide County, for a period of eighteen (18) months from the date of this Support Program, a monthly allowance of eight (8) hours of remote non-warranty telephone support at no additional charge. The monthly allowance may be used for assistance and advice on the operation and functions of the Applications, for help with diagnostics and other problem determination procedures, and for advice and assistance in problem situations. Any unused portion of this monthly allowance cannot be carried forward to subsequent months. After the initial eighteen (18) months, County's non-warranty support usage and monthly allowance will be reviewed as part of the annual review outlined in Subsection 2.6 below.

2.3 To initiate work on urgent issues within one hour of receiving County's call for assistance to the County Support Center ("CSC") twenty-four (24) hours per calendar day, seven (7) days per week. Urgent issues are those involving substantial Application failure or those which, in County's reasonable judgment, are critical to County's overall operation. For non-urgent issues, including correction of non-urgent Application problems, SMS shall, during County's normal business hours, initiate work either on a remote basis, either from SMS's corporate office or from SMS's local office, or on-site, whichever is deemed to be more effective and efficient.

2.4 Provide a record in SMS's events tracking system ("EVTS") of requests received at the CSC from a County employee or other County representative, including a description of the request, the time spent, the actions performed to satisfy the request and the resolution of the request. County may request, and SMS shall provide, access to this information in order for County to review the support effort being provided at County's request and the status of work in progress.

2.5 All Applications and Architectural Software receive the same level of support described in this Attachment K; except that:

(i) Applications and Architectural Software provided in a term-licensed basis under this Contract shall receive periodic Updates, Releases and Versions (if applicable) to the standard SMS Application and Architectural Software functions and Documentation at no additional license fee;

(ii) Applications and Architectural Software provided on a perpetual-licensed basis under this Contract shall receive periodic Updates and Releases to the standard SMS Application and Architectural Software functions and Documentation at no additional license fee;

(iii) Applications and Architectural Software provided on a perpetual-licensed basis under this Contract, and which receive standard support, shall be charged SMS's then-current rates for new Versions of previously-delivered Applications and Architectural Software; and

(iv) Applications and Architectural Software provided on a perpetual-licensed basis under this Contract, and which receive extended support shall receive new Versions of previously-delivered Applications and Architectural Software at no additional license fee.

As of the Effective Date of Contract T00834T, the following Applications are identified as receiving either standard or extended support services:

Standard Support

No Applications are receiving standard support as of the Effective Date of Contract T00834T.

Extended Support

As of the Effective Date of Contract T00834T, the following Applications are receiving extended support:

- Signature RCO
- SMS OPENLink
- Foundation Systems, Inc. (FSI)

In the event SMS announces and designates new follow-on Applications to replace existing Applications, such SMS-designated follow-on Applications shall be treated as new Versions by SMS for purposes of this Contract and SMS shall provide such follow-on Applications at no additional license fee where those successor Applications replace Applications provided via remote computing services (i.e., RCO) or on a term-licensed basis, or where the replaced Application was receiving extended support services.

2.6 Meet annually with County management to (i) jointly develop an ongoing annual support schedule, (ii) evaluate support performance, and (iii) review County's utilization of the Application(s).

2.7 Provide County with all generally applicable federally-mandated regulatory changes and state-mandated billing changes. Federally mandated programming changes to the payroll and accounts payable applications, and to the case mix grouper/schemes will be provided at no additional charge. SMS charges, if any, for other generally applicable federally-mandated program changes or state-mandated billing changes are contingent on the scope of such changes and are set on a multi-customer/fair-share basis for programming. Changes will be provided to County when made generally available to other SMS customers.

2.8 Provide County with an annual allowance of thirty-two (32) hours of local SMS education during the term of this Support Program unless otherwise mutually agreed in the annual support schedule as outlined in Subsection 2.6 above.

3. County Responsibilities

3.1 Ensure the appropriate County personnel have been trained in the operation, support and management of the Applications.

3.2 Establish a help desk for System support and identify a County employee who will serve as the coordinator/liaison between County and SMS, as well as a person(s) who will serve as an alternate or back-up coordinator/liaison. The coordinator/liaison person shall be primarily responsible for reporting and tracking support issues for resolution. To the best of its ability, County shall funnel all support calls and questions to SMS through County's help desk.

3.3 County, upon detection of any Error, defect or nonconformity in the software, shall, if requested to do so by SMS, submit to SMS a listing of output and any such other data which SMS reasonably may request in order to reproduce operating conditions similar to those present when the Error occurred or the defect or nonconformity was discovered, as the case may be.

3.4 On a mutually agreed, controlled basis, provide SMS with on-site and remote access to Sites through the SMS-approved support network as described in Attachment M, Equipment/System Software/Application Software Components, which County shall be responsible for acquiring and maintaining.

3.5 If required by SMS, maintain a user acceptance testing environment, configured with the Applications and such SMS-recommended Equipment and non-SMS application(s) as specified in Attachment M, Equipment/System Software/Application Software Components.

3.6 Maintain up-to-date Documentation, and for the Equipment/Applications located at the Sites, be solely responsible for maintaining all necessary backup, recovery and required system operating procedures.

3.7 County shall maintain an Equipment/Application problem report in accordance with County policies and procedures. In the event a problem arises, County shall perform problem diagnostic activities and remedial actions, as reasonably requested by SMS; and County shall perform procedures specified by Third Party Software and Equipment suppliers. Remedial actions that SMS may require include County installation of generally available Updates, Releases and required Versions, if applicable.

3.8 Implement Updates within sixty (60) calendar days; Releases within six (6) months; and Versions within eighteen (18) months after each item's general availability. SMS and County may mutually agree to extend implementation time frames unless commercially impracticable to do so; or SMS may announce extensions to these implementation time frames at the time of general availability. If a delay is mutually agreed, SMS will continue to provide support under this Support Program during the period of delay.

3.9 County shall, according to a mutually agreed upon schedule and contingent with any County funding cycle, obtain additional Equipment and install the latest level of Third Party Software relating to Updates, Releases and Versions, or in response to federal and state regulatory change or optional net new functions obtained by County as designated by SMS, or as required by Third Party Software vendor requirements. If County and SMS cannot reach an agreement regarding the installation schedule, SMS shall not be liable for failures related to delays associated with County failure to timely obtain and install Equipment and Third Party Software.

3.10 To the best of its ability, and contingent upon County funding cycles, County shall remain on the latest release and/or version of Third Party Software as designated by SMS, and obtain support of Third Party Software from the respective vendor or support provider. If County and SMS cannot reach an agreement regarding the installation schedule for Third Party Software, SMS shall not be liable for failures related to delays associated with failure to timely obtain and install the latest release and/or version of Third Party Software.

#### 4. Monthly Support Fee Increases

SMS may increase the monthly support fee once in any twelve (12) month period, upon thirty (30) days' written notice, by the previous calendar year's percentage increase in the United States Department of Labor consumer Price Index, All Urban Consumers ("CPI"); however, no such adjustment shall be made in the first twelve (12) months following the Effective Date of this Contract. The monthly support fee, if any, for Interfaces requested by County shall be quoted at the time of mutual agreement to the Specifications.

#### 5. Warranties

The warranty provisions of Contract T00834T shall be applicable to the warranties of this Support Program.

#### 6. Assignment

The Support Program is subject to the assignment provision of Contract T00834T.

#### 7. Miscellaneous

7.1 Accumulation of Remedies. All remedies available to either party for breach of this Support Program are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.


7.2 Telecommunication services, remote programming support connections charges, installation by SMS of Updates, Releases or Versions, charges for non-warranty support in excess of County's monthly allowance, travel and living expenses and other expenses associated with support provided by SMS shall be paid by County pursuant to Contract T00834T.

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The parties agree to complete the Source Code Escrow Agreement, Attachment L to Contract T00834T, by September 22, 2000.

**KING COUNTY, WASHINGTON**

APPROVED BY:

  
\_\_\_\_\_  
Signature

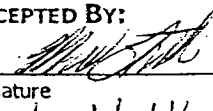
ANITA GEVING, CHIEF OPERATING OFFICER

Print name and title

12/23/99  
\_\_\_\_\_  
Date Accepted

**SHARED MEDICAL SYSTEMS CORPORATION**


ACCEPTED BY:

  
\_\_\_\_\_  
Signature

Michael Litke, Regional Vice President

Print name and title

12/23/99  
\_\_\_\_\_  
Date Accepted

Approved as to form only:   
12/23/99



This escrow agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between Shared Medical Systems Corporation (hereinafter "Contractor" or "SMS") organized under the laws of the State of Delaware, and having its principal place of business at 51 Valley Stream Parkway, Malvern, Pennsylvania, 19335; King County, Washington (hereinafter "County"); and FileSafe, Inc. (d/b/a SourceFile), organized and existing under the laws of the State of California and having its principal place of business at 50 Crisp Plaza, Suite 700, San Francisco, CA 94124, (hereinafter "Escrow Agent").

**WITNESSETH:**

WHEREAS, SMS and County have entered into Contract T00834T, pursuant to which SMS has licensed to County certain computer Application(s), including all Updates, Releases, Versions and Custom Programming thereof from time to time developed by SMS, and such additional program changes as County may order from SMS from time to time, and all Documentation therefor developed by SMS (hereinafter collectively referred to as the "Product"); and

WHEREAS, it is the policy of SMS not to disclose the Source Code and related Documentation (hereinafter collectively referred to as the "Source Code") for the Product to its customers except as provided in an applicable Escrow Agreement; and

WHEREAS, SMS has entered into a software escrow agreement with FileSafe, Inc. ("Escrow Agent") and has agreed to provide a copy of said agreement to County; and

WHEREAS, SMS and County agree that upon the occurrence of certain events described in Section 4(a) below, County shall be able to obtain the Source Code and all revisions thereof, and accordingly, SMS agrees to deliver said Source Code to the Escrow Agent;

NOW, THEREFORE, in consideration of the mutual covenants exchanged herein and for other valuable consideration, the adequacy and receipt of which are hereby acknowledged, SMS, County and the Escrow Agent hereby act and agree as follows:

1. Deposits

The Escrow Agent, as a safekeeping escrow agent, agrees to accept from SMS the Source Code. The Escrow Agent will issue to SMS a receipt for the Source Code upon delivery. The Source Code held by the Escrow Agent shall remain the exclusive property of SMS, and the Escrow Agent shall not use the Source Code or disclose the same to any third party except as specified herein. The Escrow Agent will hold the Source Code in safekeeping at its offices herein above indicated unless and until the Escrow Agent receives notice pursuant to the terms of this Agreement that the Escrow Agent is to deliver the Source Code to County or SMS, in which case the Escrow Agent shall deliver the Source Code to either SMS or County pursuant to the provisions of this Escrow Agreement.

2. Representations of SMS to County

SMS represents and warrants to County that:

(a) The material described in Attachment M, Equipment/System Software/Application Software Components, constitutes the Source Code and Documentation for the Product licensed to County pursuant to Contract T00834T.

(b) The Source Code delivered to the Escrow Agent is in a form suitable for reproduction by computer and/or photocopy equipment, and consists of a full source language statement of the program or programs comprising the Product and complete program maintenance Documentation, including all flow charts, schematics, annotations and database design which comprise the preceding detailed design specifications, and all other material necessary to allow a reasonably skilled third party programmer or analyst to maintain or enhance the Product without the help of any other person or reference to any other material.

(c) SMS will promptly supplement the Source Code with all revisions, corrections, Custom Programming, Updates, Versions, Releases, or other changes so that the Source Code constitutes a human-readable program for the then-current Release of the Product.

3. Testing

SMS shall test all Versions, Updates, Revisions, Custom Programming, and such additional program changes as County may order from SMS from time to time, deposited into escrow. The Versions, Updates, Revisions, Custom Programming and program changes tested shall be those currently used by County. In addition, SMS agrees to provide County with substantial evidence that the Source Code shall perform at least at the following minimum levels:

- Application(s) will compile without Errors and run
- Registration functions can be performed
- Scheduling functions can be performed
- Encounter processing functions can be performed
- Billing functions can be performed
- Reconciliation functions can be performed
- Reporting functions can be performed

4. Notice of Default

(a) SMS shall be deemed to be in default of its responsibilities to County if:

(i) SMS is not able, at any time during the performance of Contract T00834T, to continue the Contract for any reason, including, but not limited to, termination for non-performance; default in performance; or sale, assignment, or transfer of ownership of Contract T00834T without the written authorization of County; or

(ii) SMS is unable, at any time during the term of support specified in Attachment K, Support Program, to correct any malfunction, defect, or nonconformity in any Product which prevents such Product from functioning in accordance with the applicable specifications, Documentation, performance criteria, and other warranties and descriptions provided in Contract T00834T, within 5 Business Days after County's notification to SMS specifying, in reasonable detail, how the Product fails to conform; or

(iii) SMS is unable to discharge any of its maintenance obligations with respect to any Product in accordance with the warranties or other standards for such maintenance set forth in any software support program from time to time in effect between SMS and County, within 5 Business Days after County's notification specifying in reasonable detail how the Product is not being maintained properly; or

(iv) the sale, assignment, or other transfer by SMS, without the prior written consent of County, of such of SMS's rights in the Product as would prevent SMS from the discharge of its obligations with respect to the performance of the Product under Contract T00834T, or from the discharge of its maintenance obligations with respect to the Product under any software support program from time to time in effect between SMS and County; or

(v) SMS becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers, or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated its business voluntarily or otherwise, and County has compelling reasons to believe that such event(s) will cause SMS to fail to meet its requirements under Contract T00834T, or warranty and maintenance obligations in the foreseeable future.

(b) County shall give written notice (the "Notice of Default") to the Escrow Agent of any default by SMS. The Notice of Default shall, at the minimum, (i) be labeled "Notice of Default," (ii) identify

Contract T00834T and this Escrow Agreement, (iii) specify the nature of the default, (iv) identify the Source Code with specificity, and (v) demand the delivery of the Source Code to County.

(c) Upon receipt of the Notice of Default, the Escrow Agent shall send a copy of the Notice of Default to SMS by certified or registered mail, postage prepaid, return receipt requested. If SMS desires to dispute the Notice of Default, SMS shall, within 5 Business Days after the receipt of the copy of the Notice of Default from the Escrow Agent, deliver to the Escrow Agent with a copy to County an Affidavit stating that no default has occurred, whereupon the provisions of Paragraph 5 hereof will become applicable. If the Escrow Agent receives the Affidavit within said 5 Business Days, the Escrow Agent shall continue to hold the Source Code in accordance with this Escrow Agreement. If the Escrow Agent does not receive the Affidavit within said 5 Business Days, the Escrow Agent is authorized and directed to deliver the Source Code to County.

5. Notice of Termination

Upon the termination of Contract T00834T for reasons other than non-performance or default, failure to perform the warranty provisions or other events as more completely described in paragraph 3 herein, SMS may obtain the return of the Source Code by furnishing written notice of the termination, agreed to by authorized and notarized signature of County.

6. Disputes

(a) In the event that SMS files the required affidavit with the Escrow Agent in the manner and within the time period set forth in Paragraph 4(c) hereof, or if County shall fail to agree that the License has been terminated, the Escrow Agent shall not release the Source Code to either party except in accordance with (i) a mediation agreement as hereinafter provided; (ii) receipt of an agreement with authorized and notarized signatures of both SMS and County authorizing the release of the Source Code to one of the parties; or (iii) a final decision by the King County Superior Court.

(b) Disputes arising under this Agreement shall be referred immediately to mediation. The mediation shall be conducted in Seattle, Washington. The Escrow Agent shall give prompt effect to any authenticated mediation agreement, notwithstanding the right of either party to seek, in King County Superior Court, enforcement or a stay of the mediation agreement based solely upon the failure of either party to comply with the mediation agreement.

(c) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington.

7. Payment to Escrow Agent

SMS shall pay to Escrow Agent all fees required to maintain the escrow relationship, except that County will pay any charges imposed by Escrow Agent upon the release of Source Code to County.

8. Termination

This Escrow Agreement shall terminate on the delivery of the Source Code to either party in accordance with the terms of this Agreement.

9. Waiver, Amendment or Modification; Severability

This Escrow Agreement shall not be waived, amended or modified except by written agreement of all the parties hereto. Any invalidity, in whole or in part, of any provision of this Escrow Agreement shall not affect the validity of any other of its provisions.

10. Notices

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All notices required to be given hereunder shall be in writing and shall be given by certified or registered mail, return receipt requested, to the parties at their respective addresses as provided in Contract T00834T.

11. Limitation on Escrow Agent's Responsibility and Liability

(a) The Escrow Agent shall not be obligated or required to examine or inspect the Source Code, or any of the Additions. The Escrow Agent's obligation for safekeeping shall be limited to providing the same degree of care for the Source Code as it maintains for its valuable documents and those of its customers lodged in the same location with appropriate atmospheric or other safeguards. However, the parties agree and acknowledge that the Escrow Agent shall not be responsible for any loss or damage to any of the Source Code due to changes in such atmospheric conditions, unless such changes are proximately caused by the gross negligence or intentional misconduct of the Escrow Agent, its employees, agents or assigns.

(b) The Escrow Agent shall be protected when acting upon any written notice, request, waiver, consent, receipt or other paper or document furnished to it, not only in assuming its due execution and the validity and effectiveness of its provisions but also as to the truth and acceptability of any information therein contained, which it in good faith believes to be genuine and what it purports to be.

(c) In no event shall the Escrow Agent be liable for any act or failure to act under the provisions of this Source Code Escrow Agreement except where its acts are the result of its gross negligence or intentional misconduct. The Escrow Agent shall have no duties except those which are expressly set forth herein, and it shall not be bound by any notice of a claim or demand with respect thereto, or any waiver, modification, amendment, termination or rescission of this Source Code Escrow Agreement, unless in writing received by it, and, if its duties are affected, unless it shall have given its prior written consent thereto.

(d) The parties to this Agreement hereby jointly and severally indemnify the Escrow Agent against any loss, liability, or damage, other than any caused by the gross negligence or intentional misconduct of the Escrow Agent, its employees, agents and assigns, including reasonable costs of litigation and counsel fees, arising from and in connection with the performance of its duties under this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Source Code Escrow Agreement to be duly executed as of the year and date first above written.

(SEAL)

Attest:

(SEAL)

Shared Medical Systems  
("SMS")

By: [Signature]

[Signature] 12/23/99  
King County, Washington

Approved as to form only

[Signature], 12/23/99  
Deputy Prosecuting Attorney

**ATTACHMENT L**  
Source Code Escrow Agreement

**13972**

Attest:

(SEAL)

Attest:

By: \_\_\_\_\_

(“Escrow Agent”)

By: \_\_\_\_\_



Exhibit 1  
FORM OF ACKNOWLEDGMENT BY BENEFICIARY

The undersigned hereby acknowledge, accept and agree to be bound by the terms of the SourceFlex Software Source Code Escrow Agreement by and between SourceFile, Inc., a California corporation, as Escrow Agent and Shared Medical Systems Corporation ("SMS"), as Depositor, dated September, 1994. The undersigned acknowledges that it has received a copy of the Source Code Escrow Agreement separately from SMS.

BENEFICIARY: King County, Washington

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Date: \_\_\_\_\_

DEPOSITOR: Signature: *Michael Litke*

Name: Michael Litke

Title: Regional Vice President

Shared Medical Systems Corporation  
51 Valley Stream Parkway  
Malvern, PA 19355

Please send CERTIFIED or REGISTERED MAIL to:

SourceFile  
50 Crisp Plaza, Suite 700  
San Francisco, CA 94124  
Attn: Ms. Bea Strickland, Director  
Tele: (415) 715-2733 Fax: (415) 822-4302

The following is a list of the Source Material Deposits placed in escrow with SourceFile for Beneficiary:

<u>Deposit</u>	<u>Annual escrow fee (as of the date of this Agreement)</u>
Signature	\$ 750
SMS OPENLink	\$ 250

Upon completion, please forward a copy of this form to SMS along with the annual fee for each Deposit. Thereafter, the annual fee shall be due on the anniversary date of the execution of this Form of Acknowledgment by Beneficiary.

## Equipment/System Software/Application Software

The following Equipment, in combination with the System software and Application software components shall be delivered to County and comprises the complete System environment.

County may choose to obtain Equipment or System software through its own previously established contracts with vendors. County may also choose to obtain Equipment or System software through SMS, either on a leased or purchased basis or combination of both. If Equipment or System software is leased or purchased through SMS, SMS agrees that the cost of Equipment shall not exceed the best of either the SMS price or the previously established County vendor contract pricing structure. SMS may require County to provide proof of pricing from County Equipment or software contracts. The purchase or lease of any Equipment or System software may be staggered over time to accommodate both budget and anticipated usage.

Title to any Equipment purchased from SMS shall pass to County upon payment in full of the associated Equipment purchase price; such title shall be free and clear of all liens and encumbrances, excepting those of parties claiming through County. Prior to the Delivery Date for an item of Equipment and with County's prior approval, which shall not be unreasonably withheld, SMS may substitute another item of Equipment which has at least the equivalent processing, storage, communications, display, and/or printing capabilities.

In the event County obtains Equipment through SMS, SMS agrees to provide such new Equipment to County complete with the manufacturer's warranty for such Equipment. Upon expiration of the manufacturer's warranty, County, at its sole discretion, may elect to (i) obtain Equipment maintenance support directly from the manufacturer, (ii) obtain Equipment maintenance support from a third party vendor, or (iii) provide such maintenance support through its own means.

### System Components

The following details the Equipment, System software, and Application(s) by proposed Application:

### **SMS Signature Remote Computing Option (RCO)**

#### Applications

#### Version

SMS Signature Application	Version 23 or current
Patient Management	
Front Desk Operations (Point of Service Billing)	
Charge Entry (includes multiple formats)	
On-line Account Inquiry	
Registration/Revision	
HMO/PPO Administration	
Referral Tracking	
Appointment Scheduling (includes Encounter Control)	
Immunization Tracking and Registry	
Billing and Collections Management	
Accounts Receivable Management	
Guarantor/patient Billing	
Insurance Processing	
Tape/Electronic Billing	
Remittance Processing	
Payment Posting and Refund Check Writing	
Collection Workstation/Target Files	
Builder's Edge	
Online Interface Express (OLIE)	

SMS OPENLink

Version 22.2, Level 2, or current

OAS GUI

Signature Windows-based Integration Module (SWIM)

<u>Equipment</u>	<u>Description</u>	<u>Quantity</u>
Dual Fractional T-1 Router		
CISCO2501	Cisco 2501 ENET/Dual Serial router	4
MEM2500-4U16D	4 to 8MB DRAM SIMM factory upgrade	4
MEM2500-8U16F	8 to 16MB FLASH SIMM factory upgrade	4
CAB-V35MT	Cisco V.35 DTE, male cable 10'	6
CAB-V35FC	Cisco V.35 DCE, female cable 10'	2
SF25DS-11.0X	Cisco 2500 Series IOS IP/IPX and IBM Feature Set	4
JD-50	AUI to 10Base-T Transceiver	4
DCRATT10L5	RJ45 to RJ45 UTP level 5 cable 10'	4
F-3111-001-131110	Prism with LCD V.35 port T1 CSU/DSU ENET	4
SITECBL-50	Prism 3000 Series RJ45-RJ45 cable 50'	4
000839-0X	US Robotics 33.6 modem external	2
TXP-SUPV-DIT	TxPort Prism 3000 series console cable kit	2
VSP and Printstation		
902063-000	Attachmate	1075
	VPS/PC Software	1
	SMS Printstation (high speed)	1
Misc.	Miscellaneous Cables and Supplies	2
SAA GateWay		
386745-001	Compaq 1850R PIII500 128 MB RAM	1
401268-B21	2nd CPU (401268-B21)	1
313616-B21	Additional Memory - 256MB RAM	1
313615-B21	Additional Memory - 128MB RAM	1
295643-B21	Compaq 3200 RAID controller	1
31706-B21	Hard Drives: 3 9.1 GB 7200 RPM HS	3
328065-B21	Redundant Power Supply Cpq Hot Pug Red. PS 48v DC	1
317450-B21	Redundant Dual-Head NIC (Failover)	1
#5686	U.S. Robotics 56k modem	1
Signature Windows-based Integration Module (SWIM) – DB Server		
100745-002	Compaq 5500 Xeon, PIII-500 Mhz, 1mb Cache, 2 CPU,	1
	256 Mb Expandable to 4 CPU, 4 gig RAM	
	1gig Memory Expansion Module	2
295643-B21	Compaq 3200 RAID Controller	1
400739-B21	18.2 gig 7200 rpm Hotswap Hard Drive	4
386121-B21	Redundant Fan Module	1
308006-001	V55 Color Monitor	1
306592-B21	Redundant Power Supple	1
317450-B21	Redundant Dual Head NIC	1
5686	US Robotics 56kps Modem External	1
Signature Windows-based Integration Module (SWIM) – Workstation:		
165590-003	Compaq Deskpro 6500 64MegRAM, 10Gb HD, PIII 5001	
325800-001	Compaq V700 17" Color Monitor	1
294900-002	Compaq 56.6 Data 14.4 Fax Modem	1



**ATTACHMENT M**

Hardware, Server System Software, and Application Software Components

236-00930	NT Workstation Software (single)	1
203-00490	MS Visual Basic 6.0 Professional	1
07-00-02077	Symantec pcANYWHERE32 Version 8.0	4
84H1526	IBM BookManager Read 2.0 for Windows	1
BJS21T	32-bit Scheduling Package	1
359-00069	MS SQL Client 6.5 MOL A (minimum 10 units)	1
118340.63	Attachmate Personal Client for Windows 95 V6.3 CD	1

<b><u>System Software</u></b>	<b><u>Description</u></b>	<b><u>Quantity</u></b>
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SAA GateWay Software

140075	Novell Netware for SAA 4.0 Server	1
140081	Novell Netware for SAA 4.0 500 user additive license	1
140078	Novell Netware for SAA 4.0 50 user additive license	1
140077	Novell Netware for SAA 4.0 24 user additive license	1
140073	Novell Netware for SAA Base Kit	1
938423	Novell Hostprint 4.0 256 session	1
938421	Novell Hostprint 4.0 Base Kit	1

MS SQL Client Software

County to provide MS SQL v6.5 Client Access Licenses for Desktops.

**Monthly WAN\***

Dual Routed 256KB Circuit (Network Service Units (NSU) maximum: 2,130)	1
--	---

Assumptions:

- 1075 PC workstations
- 50 network printers
- 1 Printstation
- No more than 15 one-way interfaces

Description	NSU Value	Qty	Total NSU's
Session/Device/PC Workstation	1		
SIGNATURE Device	1.5	1075	1,613
Network Printers	1	50	50
Printstation	60	1	60
CareCenter PC	14		
1-Way Interface	4	15	60
2-Way Interface	6		
<b>Total</b>			<b>1,783</b>

A dual routed 256KB circuit can accommodate up to 2,130 NSU's before requiring an upgrade.

*\*Note: The monthly fee associated with the use of the WAN is as described in Attachment B, Payment Schedule.*

**SMS NOVIUS™ PEM/Clinical Manager Remote Computing Option (RCO)**

**Applications**

**Version**

Physicians Enterprise Manager/Clinical Manager

Version 2.2.3 or greater

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<u>Equipment</u>	<u>Description</u>	<u>Quantity</u>
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To be determined when County approves this installation.

**Seattle-King County Department of Public Health Statistics**

**County Statistics**

**Entry**

- |                                   |                         |
|-----------------------------------|-------------------------|
| 1. Total number of Sites          | To be determined        |
| 2. Total number of Care Providers | 20 Full-time Equivalent |

**SMS Sizing and Capacity Assumptions**

Base Data Storage

Patients on file	45,000 x 6 = 270,000
Charges on file	45,000 x 26 = 1,170,000
Appointments on file	45,000 x 6 = 270,000
Report Units	625 per month

Extra Base Data Storage

Patients on file	1.5¢ per record/per month
Charges on file	2.5¢ per record/per month
Appointment of file	6.8¢ per record/per month

Test Data Base

\$1,000 one-time fee - waived  
 \$300 per month - waived

**SMS OPENLink**

SMS OPENLink Server is dedicated to the SMS OPENLink Application only for the development and maintenance of system Interfaces in the SMS solution to the County.

**SMS OPENLink Application Software**

<u>Application Software</u>	<u>Version</u>	<u>Quantity</u>
SMS OPENLink	22.2. Level 2 or current	1

<u>OPENLink Server Components</u>	<u>Quantity</u>
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SMS OPENLink Application Server	1
Total OPENLink Servers	1

OPENLink Client Components

Win95 Common Workstation	1
Win95 Support Workstation	1
Total OPENLink Clients	2

**SMS OPENLink Database Server**

This Application/database Server hosts all software for the SMS OPENLink Solution.

<u>Equipment</u>	<u>Description</u>	<u>Quantity</u>
100745-002	Compaq 5500 Xeon, PIII-500 Mhz, 1mb Cache, 2 CPU, 256 Mb Expandable to 4 CPU, 4 gig RAM	1
*	1gig Memory Expansion Module	1
295643-B21	Compaq 3200 RAID Controller	1
400739-B21	18.2 gig 7200 rpm Hotswap Hard Drive	3
*	17" Color Monitor	1
*	12/24-Gb SCSI DAT Tape Drive	1
386121-B21	Redundant Fan Module	1
306592-B21	Redundant Power Supple	1
317450-B21	Redundant Dual Head NIC	1
5686	US Robotics 56kps Modem External	1
* As mutually-agreed by SMS and PHSKC		

**Server Software****Description**

- Microsoft Windows NT Server Version 4.0.
- Microsoft Access 7.0.
- Microsoft Visual C++ Intel/Professional Edition Version 4.1.
- Symantec pcANYWHERE32 Version 8.0.
- Microsoft SQL Server 6.5 (required for storing customer defined OPENLink configuration database information using Microsoft SQL Server, otherwise optional).
- Microsoft SNA Server for NT Version 3.0 ( required for INVISION and UNITY FMS, otherwise optional).
- Digital Pathworks 32 Version 7.0A ( required for DECnet interfaces, otherwise optional).
- Backup Software:
  - ⇒ Computer Associates Arcserveit Version 6.6 for Windows NT.
  - ⇒ Computer Associates Backup Agent Version 6.6 for Microsoft SQL for Windows NT.
  - ⇒ Computer Associates Backup Agent Version 6.6 for Open Files for Windows NT.
  - ⇒ Computer Associates Disaster Recovery Version 6.6 for Windows NT.

**SMS OPENLink Workstation(s)****95 Client Common Workstation:**

The SMS OPENLink Workstation supports the SMS OPENLink Server configuration.

**Required Hardware**

- County supplied hardware and system software in accordance with standards defined in SKIL RFP 139-98RLD
- 4x or greater CD-ROM Drive.
- An SVGA Local Bus video adapter ( Windows accelerated SVGA graphics adapter).

**Required Software**

- Microsoft Windows NT Workstation Version 4.0 or Windows 95.
- Microsoft Access 7.0.
- Microsoft SQL Client 6.5 (required for storing customer defined OPENLink configuration database information using Microsoft SQL Server, otherwise optional ).

- Microsoft Visual C++ Professional Edition Version 4.1or current ( required for creating User Exits, otherwise optional).

**95 Client Support Workstation:**

The SMS OPENLink Support Workstation allows SMS OPENLink support personnel to remotely access the County's System to diagnose and resolve SMS OPENLink Application and/or networking issues upon request. At least one SMS OPENLink Client Workstation must be configured as a Support Workstation. All hardware chosen must be on the Microsoft's Windows NT Server Hardware Compatibility List. The additional components required for the Support Workstation are:

Required Hardware

- County supplied PC hardware and system software in accordance with standards defined in SKIL RFP 139-98RLD
- 56Kbps Hayes compatible modem.
- Add Analog, non-PBX, with DID (direct inward dialing), telephone line for voice.
- Add Analog, non-PBX, with DID (direct inward dialing), telephone line for data.

Required Software

- Symantec pcANYWHERE32 Version 8.0.

**NOTE:** To provide a controlled environment, no additional software or hardware should reside on the Support Workstation.

Where applicable, the required hardware and software of the Client and Support Workstation can be configured on one workstation.

**Foundation Systems, Inc. - Pharmacy**

Foundation Systems, Inc. (FSI) Pharmacy Solution is comprised of the following components to support the pharmacy program at five (5) County Sites:

<u>FSI Pharmacy Application Software</u>	<u>Version</u>	<u>Quantity</u>
SMS FSI Pharmacy Systems	V9.05	1
<u>FSI Server Components</u>		
FSI Pharmacy Server – HP Netserver		1
<u>Client Components</u>		
95 Client (provides end-user access to the SMS FSI Pharmacy Application)		5

**FSI Pharmacy Server HP Net Server**

This Application/database Server hosts all software for the FSI Pharmacy Solution.

Required Hardware

Quantity

D8504A	Hewlett Packard Netserver LH 3r 6/PIII-500 Mhz, Model - 1 Array, 1 tower chassis configuration as follows: 256 Mb RAM, One 3.5" 1.44 Mb floppy disk drive and 24X CD ROM, Two serial communication ports and two parallel printer ports. One HP Keyboard and HP 10/100 NIC (D8504A)	1
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D6107A	9 Gb SCSI Hard Drive (3 online plus 1 spare)	4
C1555D	HP SureStore DAT 24I	1
D5955A	HP NetRaid Disk Array Controller with Dual Channels	1
KTH6097	Additional Memory - 128mb	1
D6107A	4.1 Gb 7200 Rpm Hard Drive	4
H55210A	Hardware Support Pack 3yr, 7X24, 4 Hour Response	1
5686	U. S. Robotics Modem	3
V4-ISA-650T-RJ	Computone 4 port ISA Serial Expansion Board	1
*	HP 17" SVGA color monitor	1
*	APC BackUPS 500 universal power supply with battery backup	1
* As mutually agreed		

Required Software

LA-261-UX50-5	5-user License for the SCO Open Server Five (Enterprise Version) 25 user UNIX Operating System	1
LA013-0010-5	10-user License for the SCO Open Server Five (Enterprise Version) 25 user UNIX Operating System	2
CA200-UX74-5.0.5	Media Kit for the SCO Open Server Five (Enterprise Version)	1
	Symantec PCANYWHERE 32. Host & Remote V8.0 for DOS/Win 95,NT	5

**FSI 95 Client**

The Client provides end-user access to the SMS FSI Pharmacy Application.

Required Hardware

County supplied hardware and system software in accordance with standards defined in SKIL RFP 139-98RLD

Additional Required Software

Terminal Emulation Support (Rhumba or Attachmate) as mutually agreed and supplied by SMS.

**Seattle-King County Department of Public Health Statistics**County Statistics

	<u>Entry</u>
1. Total number of Pharmacy sites	5
2. Calculate for all sites or one site	all
3. Total number of Pharmacy users	5
4. Number of workstations per site	1
5. Total number of workstations at all sites	5
6. Workstation operating system	95
7. Total number of printers at all sites	-
8. Total number of Servers	1

Custom Programming

No Custom Programming requirements have been identified. Future Custom Programming requirements will be accommodated through the Change Order process as defined in Section 2.2 of Contract T00834T and in Attachment P, Change Order Process. When approved by County, SMS will program the Custom Programming in accordance with a mutually agreed schedule. Custom Programming will be implemented after use of the Software in a production mode, except for those Custom Programming items (such as file conversions and Interfaces) identified herein or in the fixed scope Implementation Workplan. SMS will bill County for Custom Programming fees in arrears as incurred, unless otherwise specified. Fees for Custom Programming shall be as identified in Attachment B, Payment Schedule.

External Interfaces

SMS and County agree that OPENLink will be the standard Interface engine. County staff will attend SMS OPENLink training in accordance with the Implementation Workplan, and SMS will provide 80 hours of on-site technical consulting to assist with development of initial Interfaces. Specific Interfaces to be determined by County based on priorities, timelines and implementation requirements.

Production Data Conversion

County and SMS will mutually work to develop the conversion of production data as defined in Contract T00834T, Section 5, Statement of Work. SMS will provide Conversion Specifications which contain conversion information requirements including data maps. SMS provided information will include a well defined data mapping matrix for County's data definition for conversion.

Production data conversion will be accomplished in accordance with a phased implementation approach as mutually agreed in the Implementation Workplan. It is anticipated that County shall incrementally convert County data over a period of time currently expected to encompass six phases. Each phase is expected to include multiple Sites.

The conversion process consists of the following steps:

1. Final definition of data to be converted. The County's current PHIS system will be the source system for the data to be converted. It is expected that the following general categories of information will be converted:

SMS Data Conversion	Foundation Systems Data Conversion
• Demographic Information	• Profile (Rx)
• Immunization History	• Prescription Information
• Medical Record ID	• Allergies/Reactions
• Last Encounter date	• Patient Registration Information
• Medical Record location(s) (up to 9) - may be accomplished using an OLIE script.	

2. County, with assistance from an SMS installation representative will map data fields from the County's system(s) to the pre-defined SMS inbound standard data format. SMS will assist in resolving data exceptions or establishing default values as required. SMS will develop a plan to validate converted data. Both the County and SMS must approve the conversion specifications and the validation plan.
3. County will write and execute a program to produce the inbound standard data format on tape from the data on the County's system.
4. County will provide SMS the inbound standard data format on tape. SMS will edit for required data, verify against the SMS master files, and balance. Actual conversion does not take place until this step is completed and accepted.
5. SMS will produce discrepancy reports for any Errors that are found.

6. Process is repeated until all discrepancies are resolved.

The second phase of the conversion process creates the SMS relational data base from the validated or approved data from the inbound standard data format tape. During this phase, SMS will

1. Build and populate the master files directly into SMS Applications utilizing SMS supplied programs.
2. Validate that the populated master files properly contain validated County data.

The scheduling of County's conversion of live data shall be coordinated by the Project Manager and the SMS Implementation Project Manager.

This Attachment lists all Project Milestones to be developed during the SKIL project and delivered by SMS to County. The due date for each Milestone is defined in accordance with the Implementation Workplan.

	Milestone	County approval req'd
1.	<p>SKIL Implementation Workplan - The Implementation Workplan shall include a description of major activities, scheduled activity dates, major milestones and decision points, and resource assignments. The plan should include the following major components:</p> <ul style="list-style-type: none"> <li>• Base Software Installation</li> <li>• Software modification(s)</li> <li>• External system interface Development</li> <li>• Data conversion</li> <li>• User training</li> <li>• User acceptance testing</li> <li>• Master Files and Profiles</li> </ul>	Yes
2.	<p>Bi-Weekly Project Status Report - The Project Status Report shall include the following topics as appropriate:</p> <ul style="list-style-type: none"> <li>• Status of activities from the previous bi-weekly period</li> <li>• Planned activities for the next bi-weekly period, including decisions and actions due from County</li> <li>• Status of Change Control process (Changes submitted, approved, rejected and pending)</li> <li>• Current outstanding issues</li> <li>• Issues resolved during the previous bi-weekly period</li> <li>• Other remarks as appropriate</li> </ul>	No
3.	<p>Training Plan - A training plan is required for training the SKIL Core Team on the function of the base Application, software modifications and external Interfaces.</p> <p>Each Training Plan should include the following items:</p> <ul style="list-style-type: none"> <li>• Training goals and objectives</li> <li>• List of modules/components on which Core Team will receive training</li> <li>• Training schedule</li> <li>• Suggested attendees</li> <li>• Updates to the plan and materials as appropriate</li> </ul>	Yes
4.	<p>SMS Softcopy - Softcopy Documentation shall include the following:</p> <ul style="list-style-type: none"> <li>• Training Materials (including instructional handouts, user guides, sample work problems and instructor notes)</li> <li>• Data Dictionary (including new or modified data elements as developed)</li> <li>• User Manuals (including new sections and revisions as developed)</li> <li>• System Documentation (including new sections and revisions as developed)</li> <li>• Operations Documentation (including new sections and revisions as developed)</li> </ul>	No
5.	User Acceptance Test Plan	Yes



	Milestone	County approval req'd
6.	<p>User Acceptance Test Problems/Issues Log - At a minimum, the log shall include the following information:</p> <ul style="list-style-type: none"> <li>• Problem number</li> <li>• Problem severity level</li> <li>• Author</li> <li>• Resolved/Rejected</li> <li>• Responsible person(s)</li> <li>• Date entered</li> <li>• Date corrected</li> <li>• Date tested</li> <li>• Date resolved/rejected</li> <li>• Approving/rejecting person(s)</li> </ul>	No
7.	<p>Data Conversion Plan - The Data Conversion Plan shall include the following information:</p> <ul style="list-style-type: none"> <li>• A mapping matrix correlating data files and elements between County's Public Health Information System (PHIS) and the new Application(s)</li> <li>• User documentation for manual conversion procedures</li> <li>• Systems documentation consisting of the mapping matrix and the conversion program list</li> <li>• Conversion reconciliation and verification procedures</li> <li>• A list of tools used to perform the conversion reconciliation and verification procedures, such as new system reports, system utilities and testing tools.</li> </ul>	Yes
8.	<p>Implementation Plan - The Implementation Plan shall include, at a minimum, the following information:</p> <ul style="list-style-type: none"> <li>• Implementation tasks</li> <li>• Suggested staffing levels</li> <li>• Scheduled implementation dates</li> <li>• Task dependencies</li> </ul>	Yes
9.	<p>Equipment Delivery</p> <ul style="list-style-type: none"> <li>• Components as listed in Attachment M and the Implementation Workplan</li> </ul>	No
10.	<p>Base Software Application</p> <ul style="list-style-type: none"> <li>• Signature RCO</li> <li>• OPENLink</li> <li>• FSI</li> <li>• PEM/Clinical Manager (RCO)</li> </ul>	No
11.	Custom Programming, if applicable - Per Contract T00834T	Yes
12.	Data conversion files	Yes
13.	Site Group 1 Training/Implementation	Yes
14.	Site Group 2 Training/Implementation	Yes
15.	Site Group 3 Training/Implementation	Yes
16.	Site Group 4 Training/Implementation	Yes
17.	Site Group 5 Training/Implementation	Yes
18.	Site Group 6 Training/Implementation	Yes

Changes to the Statement of Work may be requested at any time by either party to Contract T00834T. Since a change could effect the overall cost, schedule or other terms of the Contract, both parties must review and approve each change prior to preparing a Contract amendment and implementing the change.

The following procedure shall be used by both County and SMS to initiate and control changes to Contract T00834T:

- A. Any changes or decisions which affect the scope of the Work effort specified in the Implementation Workplan or which delay the implementation of the project must be submitted in writing on the Proforma Change Order Amendment form and be signed by both SMS and County. The Proforma Change Order Amendment shall detail the nature of the change and the additional professional services fees due as a result of the change. SMS will not perform Work beyond the scope of the Work effort specified in the Implementation Workplan without a Change Order Amendment.

For changes to the Statement of Work other than changes to the Implementation Workplan, the parties must complete a Project Change Request form. Any change which results in an increase in costs or changes the terms and/or conditions of Contract T00834T requires an amendment to the Contract.

- B. SMS and County are jointly responsible for reviewing each proposed change, and shall either approve the change for further review or reject it outright. Approval of a change by both parties for further review shall constitute authorization from County for SMS to expend additional hours to investigate the proposed change. The purpose of such an investigation shall be to determine (i) the amount of additional work effort required to bring about the change, (ii) the effect on cost and project schedule, and (iii) the effect on any other terms or conditions of Contract T00834T.

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Exhibit 1

PROFORMA CHANGE ORDER AMENDMENT

This Amendment is made as of the \_\_\_\_ day of \_\_\_\_\_, between SHARED MEDICAL SYSTEMS CORPORATION, 51 Valley Stream Parkway, Malvern, Pennsylvania 19355 ("SMS") and King County, Washington, located at \_\_\_\_\_ [FULL ADDRESS] \_\_\_\_\_ ("County").

SMS and County agree to amend Contract T00834T between County and SMS dated as of \_\_\_\_\_ [Effective Date], [as amended,] ("Agreement") as follows:

1. CHANGE ORDER. The following change shall be made to the Implementation Workplan ("Change Order"):

*[Describe the nature of the change and the associated tasks]*

2. SMS estimates that the professional service hours required to effect the Change Order described in Section 1 above shall be {insert number of hours} at {insert hourly rate}. The actual hours shall be billed monthly as incurred and may exceed this estimate.

3. IMPACT. County acknowledges that the Change Order described in Section 1 may impact implementation time-frames. County accepts that SMS shall have no responsibility or liability for any delays in the implementation caused in whole or in part by the Change Order.

4. GENERAL. This Amendment supersedes any contrary or inconsistent provisions of Contract T00834T and any prior amendments. No provisions of any County purchase order shall apply. As amended, Contract T00834T shall remain in full force and effect.

IN WITNESS WHEREOF, intending to be legally bound hereby, SMS and County have executed this Amendment as of the date and year first above mentioned.

**SHARED MEDICAL SYSTEMS CORPORATION**

**KING COUNTY, WASHINGTON**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Typed or Printed Name and Title)

\_\_\_\_\_  
(Typed or Printed Name and Title)

AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between [name of Consultant or Agent] ("Consultant") and Shared Medical Systems Corporation ("Contractor" or "SMS") 51 Valley Stream Parkway, Malvern, Pennsylvania 19355.

WHEREAS, Consultant on occasion is engaged by hospitals, physician's groups or other healthcare institutions that are customers of SMS (referred to herein collectively as "Customers" and individually as "County"), to assist such Customers in their selection of an information processing system provider and installation of an information processing system; and

WHEREAS, SMS on occasion proposes certain information processing system(s) to such Customers; and Consultant may on occasion receive such information from SMS; and

WHEREAS, SMS may disclose to Consultant certain confidential information of SMS that is intended to enable Consultant to perform Consultant's engagements with such Customers; and

WHEREAS, Consultant and SMS desire to establish certain conditions with respect to SMS information disclosed to Consultant;

NOW THEREFORE, the parties, intending to be legally bound hereby, do agree as follows:

1. The term "Restricted Information" shall mean information that is not known by, or generally available to, the public at large and that concerns the business or affairs of SMS; information that is provided to Consultant by SMS, or made known to Consultant during the course of Consultant's engagement with County, which is identified by SMS as proprietary and confidential including existing SMS systems, software and those programs in development; other intellectual property of SMS; SMS's prices; the identity of SMS's Customers or prospective Customers; the actual or proposed terms and conditions of any contract between SMS and County.

2. Consultant acknowledges and agrees that in the course of, or incident to, SMS educational programs and Consultant's engagements by County, SMS may provide to Consultant or Consultant will otherwise become exposed to the Restricted Information and that Consultant's access to the Restricted Information may be necessary to enable Consultant to perform Consultant's engagement with County. Consultant shall not utilize the Restricted Information for purposes of operational processing, (outsourcing), of any SMS Applications on behalf of County.

3. Consultant agrees that, during the term of Consultant's engagement with County, and at all times thereafter: (a) Consultant will hold the Restricted Information in confidence, exercising at least the same care with respect thereto as it exercises with respect to its own confidential information of like kind and will not, without SMS's written consent, disclose any portion thereof to any third party other than County for whom the Restricted Information was disclosed, except pursuant to a validly issued subpoena or court order; (b) Consultant will restrict dissemination of the Restricted Information within Consultant's organization to those persons who have a need to know such information in performing Consultant's engagement with County for whom the Restricted Information was disclosed; and (c) Consultant will not otherwise disseminate the Restricted Information within Consultant's organization or employ the Restricted Information for any purpose other than the assistance of County for whom the Restricted Information was disclosed in the selection of an information processing system provider and, if applicable, the installation of SMS systems. Proprietary information made available to Consultant by SMS at educational programs prepared by Contractor shall be considered Restricted Information, except that such Restricted Information may be used to assist all Customers in the selection of an information processing system provider and the installation of an SMS processing system.

4. The foregoing shall not prohibit or limit Consultant's use of information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (i) previously known to it; (ii) independently developed by it; (iii) rightfully acquired by it from a third party without continuing restriction of use; or (iv) which is or becomes part of the public domain through no breach by Consultant of this Agreement.

5. Consultant agrees to take such reasonable actions as are necessary, including appropriate agreements with or instructions to its members and employees, to enable Consultant to perform its obligations hereunder. At SMS's request, Consultant will cause any of its members or employees participating in this

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engagement to acknowledge in writing their obligations hereunder; however, failure of SMS to so request shall not affect Consultant's obligations.

6. Consultant agrees that any Restricted Information disclosed to or otherwise received by Consultant, beginning on the date County received SMS's Proposal in conjunction with Consultant's engagement with County, shall be subject to the terms of this Agreement.

7. This Agreement does not grant any rights by license or otherwise, expressly or implicitly, to the Restricted Information or to any invention, discovery or derivative work of the Restricted Information that is made, conceived or acquired prior to or after the date of this Agreement. Consultant shall not receive or take possession of copies of SMS's software or other intellectual property of SMS and shall only have access to such items of Restricted Information at SMS's or County's premises; provided that Consultant may remotely access the SMS's System on County's premises where County has given Consultant specific permission to do so and supplied Consultant with County's means of authentication. Notwithstanding any other provisions of this Agreement or any County agreement with SMS, Consultant must first enter into a separate license agreement with SMS in order to be permitted access and/or use of the proprietary Implementation Methodology of SMS on County premises. The form of such license agreement is included as Attachment S of Contract T00834T.

8. Either party to this Agreement may terminate the Agreement upon thirty (30) days written notice to the other at the addresses provided herein, or at such other address as may be substituted in writing. The provisions of this Agreement shall survive termination of this Agreement with regard to any Restricted Information disclosed to Consultant prior to the date of termination. Upon termination of this Agreement, all Restricted Information shall be immediately returned to SMS. Upon the end of a Consultant engagement with County, this Agreement need not be terminated and can remain in effect for future engagements, provided that Consultant shall not retain any Restricted Information between engagements and shall return all Restricted Information to SMS or to County, as applicable, at the end of each engagement.

9. Consultant acknowledges that damages alone will be an inadequate remedy for breach of the provisions of this Agreement and that SMS, in addition to all other remedies, shall be entitled as a matter of right to equitable relief, including injunctions and specific performance, in any court of competent jurisdiction in Seattle, Washington, as long as the alleged breach arises from the Restricted Information obtained under Contract T00834T.

10. This Agreement is subject to public disclosure laws.

11. Subject to Paragraph 2.12.3.2 of Contract T00834T, County may be responsible for Consultant's intentional and willful violations of this Confidentiality Agreement which can be attributed to County management, for a period of three (3) years after Consultant executes this Attachment Q.

IN WITNESS WHEREOF, SMS and Consultant, in consideration of the foregoing and intending to be legally bound hereby, have executed this Agreement.

SHARED MEDICAL SYSTEMS CORPORATION

By: *Michael Litke*

Name: Michael Litke  
(Type or print)

Title: Regional Vice President  
(Type or print)

CONSULTANT: Edgewater Technology Consulting, S

By: *James A. Stutz*

Name: James A. Stutz  
(Type or print)

Title: President  
(Type or print)

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1. Signature RCO System Response Time Warranty.

SMS guarantees that the average response time within the County Production RCO System environment shall be 2.250 seconds for ninety percent (90%) of all transactions during the term of Contract T00834T.

Response Time shall mean the period from the time the Return or Function Key or light pen is depressed until the complete screen of the response for the one transaction appears. Response Time does not include any unscheduled downtime during County business hours from 7:00 a.m. to 6:00 p.m. Seattle local time, time during System malfunction, processing outside the System for transactions between the System and another system, transactions against inter-relational data bases, transactions against a data base while it is being accessed for County-submitted batch jobs, transactions over remote communication lines other than the primary link to SMS's ISC and transactions through devices operating at local communication speeds of less than 19.2 kbps.

2. Response Time Measurement and Support

Response Time will be measured at evenly spaced intervals using host based monitoring facilities. A Response Time failure occurs if the average Response Time, measured each day over the hours of 7:00 a.m. to 6:00 p.m., Seattle local time, is not met three times during a Monday through Friday period.

If a Response Time failure occurs or if County reasonably expects such a failure, County shall notify SMS in writing, describing the nature and how it was determined, or the reasons for County's expectations. SMS shall begin to work in a timely manner with County, review the utilization of the System and County's methodology of use of the Online Architectural Software and resolve the failure in accordance with commercially practicable time frames. If SMS determines that performance will be improved by changes to County's operational procedures or Adaptations, etc. without a significant adverse effect on the use of the System, SMS shall convey such changes in writing. If County implements such changes, or if no changes are suggested, and the Response Time is not met and it is SMS's responsibility, SMS shall make changes to the System so that the System will meet the Response Time at no additional charge to County.

If SMS demonstrates in a clear and convincing manner that the failure to meet the Response Time is not SMS's responsibility, or that the System does meet the Response Time, SMS shall give County written notice in reasonable detail, and County shall pay SMS, at SMS's then current rates, for all services performed and expenses incurred by SMS during the investigation and diagnosis.

3. System Environment

The SMS ISC-based RCO System environment is described in Attachment M, Equipment/System Software/Application Software Components as part of Contract T00834T.

The System shall be utilized in accordance with the Documentation, with Contract T00834T and with written instructions provided by SMS or the appropriate supplier. Any changes or additions to the System environment, Modifications, regulatory changes or Adaptations which create additional applications or functions, may affect System requirements. SMS reserves the right to have County remove such items and retest the System.

This warranty is provided for the benefit of County only for the use of the RCO System at County Sites. This Attachment R sets forth SMS's entire obligation and liability and County's sole remedy regarding Response Time warranty.

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**NOTE:** This License Agreement is included as to form only. All fees referenced in this License Agreement are waived for the term of Contract T00834T.

No. License: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Fee: \_\_\_\_\_

Paid Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

**SHARED MEDICAL SYSTEMS CORPORATION  
LICENSE AGREEMENT**

This License Agreement is your proof of license.

This is a legal agreement between **Consultant Firm** (Licensee) and Shared Medical Systems Corporation ("SMS") for the use of the number of licenses shown above for which payment in full has been received by SMS, to SMS' proprietary Software program SMS Implementation Methodology™. SMS has licensed, or will license, **Consultant Firm** ("Customer") to use its copyrighted proprietary Software; the SMS Implementation Methodology™ (the "Software") for the purpose of building screens and pathways at its facility implementing SMS proprietary software. The software is confidential, proprietary information copyrighted by SMS, and SMS requires that consultants who are not employees of the County be licensed to use the Software before they may access it at a Customer site. If you do not agree to the terms of this Agreement, promptly notify the SMS Consultant Coordinator, as you will not be permitted access to the Software.

1. **GRANT OF LIMITED LICENSE.** This License Agreement ("License") permits the Licensee to make use of the copy of the specified version of the Software licensed to SMS' Customer, solely for the purpose of assisting the Customer in using the Software at its facility and for no other purpose. You may not, without the express written permission of SMS, make any copies of the Software, load it onto your personal computer, print out all or portions of its output (except for the sole purpose of performing your duties at the Customer site -- such printouts must be destroyed or given to the Customer no later than the conclusion of the customer engagement), nor may you disclose the Software or any related documentation, training materials, methodologies or other SMS confidential information to any third party; this limited license only gives you the right to use the Software at the Customer site in performing your screen or pathway building or implementation assignment. Individual licenses are licensed on a "per seat" basis, and may only be transferred to another SMS customer site (and not to any other location) if (i) the license for the licensed software is current and paid in full; (ii) the location of the SMS customer to whom the Licensee wishes to transfer the license is covered by a valid license to use SMS Implementation Methodology; and (iii) the transfer is scheduled in the next quarterly report delivered to SMS by You, as required by Section 5 hereof.
2. **COPYRIGHT.** The Software and any accompanying documentation, training materials, methodologies and specifications is owned by Shared Medical Systems Corporation or its suppliers and is protected by United States copyright laws, trade secret laws and international treaty provisions. You may only use the Software for the purposes described in Article 1 above and for no other purposes. You shall not attempt to remove any copyright notices or other identifying indicia of SMS or its suppliers appearing on or in the Software or any accompanying documentation.
3. **OTHER RESTRICTIONS.** This License Agreement is your proof of license to exercise the rights granted herein and must be retained by you. You may not rent, transfer or lease the Software. You may not reverse engineer, decompile, or disassemble the Software. You may not otherwise use, modify or copy the Software or use or create any adaptation, transcription or derivative work of the Software, or merge the Software with any other program.

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- 4. TERM. The term of this license grant is one year from the Effective Date. This license grant may be earlier terminated upon written notice to the Licensee for material breach of any of the license terms hereof or for termination of the SMS Customer's license to the Software, in which event Licensee shall, if it does not elect to transfer the license in question to another SMS customer site, as provided in Section 1, be refunded a portion of the license fees paid, pro rated in accordance with the number of months for which the license was in use. Contact the SMS Consultant Coordinator to renew this license beyond its one-year term, if necessary.
- 5. REPORTS. Within ten (10) business days after the end of any quarter in which Licensee has any active licenses to use SMS Implementation Methodology, Licensee shall complete and submit to SMS a License Activity Report in the form attached hereto as Schedule A, detailing (i) the name and address of the Licensee, (ii) the number of active licenses held; (iii) the location in which such licenses are deployed, by license number, and (iv) the name of the individual utilizing the license at each location. SMS shall have the right, on not less than five business days' notice, to audit Licensee's compliance with the terms and conditions of this Agreement and shall have the right to terminate this Agreement for any material breach hereof.
- 6. FEES. The annual fee for each license granted hereunder shall be equal to \$750.00 per seat, payable in advance. All licenses shall expire at 11:59 p.m., eastern standard time, one year from the effective date of the license.
- 7. WARRANTY. THE SOFTWARE LICENSED HEREUNDER TO LICENSEE AND THE DOCUMENTATION ARE LICENSED "AS IS" AND SMS DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. IN ADDITION, SMS DOES NOT WARRANT ANY WORK DONE FOR AN SMS CUSTOMER BY YOU. This warranty gives you specific legal rights and you may also have other rights which vary from state to state.
- 8. **NO LIABILITY FOR CONSEQUENTIAL DAMAGES.** In no event shall Shared Medical Systems Corporation or its suppliers be liable for any damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or other pecuniary loss) arising out of the use or inability to use the Software, even if Shared Medical Systems Corporation has been advised of the possibility of such damages. Because some states/jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages, the above limitation may not apply to you.
- 9. U.S. GOVERNMENT RESTRICTED RIGHTS. The Software and documentation are provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. Manufacturer is Shared Medical Systems Corporation, 51 Valley Stream Parkway, Malvern, PA 19355.

Date: 12/23/99

Consultant  
 By: [Signature]  
 Name: Thomas A. Smith  
 Title: President  
 Company: Executive Technology Consulting, Inc.  
(Name of Company)

Accepted on behalf of Shared Medical Systems Corporation

Date: \_\_\_\_\_

By: [Signature]  
 Name: Karl Fetscher  
 Title: Vice President National Implementations



SCHEDULE A  
License Activity Report

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Type of License: **SMS IMPLEMENTATION METHODOLOGY™**

Consulting Firm Name:  
Consulting Firm Address:

License #	Effective Date	Customer Site	Consultant Name

County's availability of online SIGNATURE application components will be impacted by the County's scheduled system downtime associated with the lockouts for the processing of the data base. Using SMS' estimated start times (times are 24 hour times), SMS estimates that County's scheduled system downtime associated with these periods will be as follows:

- (i) Prime Time Availability shall be that period of Monday through Saturday 6:30 AM to 10:00 PM, Seattle time. SMS warrants that the on-line availability of the SIGNATURE Applications shall average not less than 98.5% during that period.
- (ii) Day-end user lockout components is estimated to be 30 to 40 minutes per day, 6 days per week during non-prime time hours; and
- (iii) Scheduled system and software management downtime occurs on Thursday from 5:00 to 6:30 AM EST and Sunday 12:00 to 1:30 AM and 3:00 through 6:00 PM EST.

The estimates in (ii) and (iii) above are provided to County based on SMS' experience at other customer sites. County's actual outage times will be impacted by a number of variables that affect the size of County's data bases and run times. These variables include, in part: data retention parameters, selection of report and profile criteria, volume of County defined data to be collected, online activity and volume of data processed at day-end and any additional applications that may be installed subsequent to Contract T00834T.

The estimates in (ii) and (iii) above also assume that County operates the System in a professional manner. This includes: scheduled purging of data; a System Equipment configuration that is equal to or greater than the Equipment configuration attached hereto as Attachment M, Equipment/System Software/Application Software Components.

SMS will make all reasonable efforts to work with County toward achieving the estimated times. If those estimates are exceeded, at County's request and at SMS' Professional Service rates, SMS will review County's utilization of the System and make recommendations for improved day-end and week-end processing and data base maintenance.