

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

985



**FROM: FIRE**

**SUBMITTAL DATE:**  
November 9, 2010

**SUBJECT:** Approval of the Mobile Data Computer Use Agreement between the Pechanga Band of Luiseno Mission Indians and the County of Riverside.

**RECOMMENDED MOTION:** Move that the Board approve and authorize the Chairman to sign the attached Mobile Data Computer Use Agreement between the Pechanga Band of Luiseno Mission Indians and the County of Riverside.

**BACKGROUND:** The Pechanga Band of Luiseno Mission Indians have entered into that certain Cooperative Agreement to Provide Fire Department Dispatch and Communication Services dated July 1, 2010 to coordinate efforts to protect the health and safety of the residents. In order for the Tribe to receive the Fire Department Dispatch and Communication Services the Tribe needs to obtain Mobile Data Computer from the County of Riverside. The Tribe will reimburse County annually based on the services and equipment as shown on Exhibit "MDC-1" and "MDC-2".

FORM APPROVED COUNTY COUNSEL  
BY: Synthia M. Gunzel 11/18/10  
DATE: \_\_\_\_\_  
Departmental Concurrence

**John R. Hawkins, County Fire Chief**

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 28,410.	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/2011

<b>SOURCE OF FUNDS:</b> Pechanga Band of Luiseno Mission Indians	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE

BY: Robert Tremaine  
**County Executive Office Signature**

- Policy
- Policy
- Consent
- Consent

Dept Recomm.:  
Per Exec. Ofc.:

**Prev. Agn. Ref.:** None | **District:** 1 | **Agenda Number:**

**3.35**

**MOBILE DATA COMPUTER  
USE AGREEMENT  
Between the Pechanga Band of Luiseno Mission Indians  
and the County of Riverside**

This Agreement is entered into this 1<sup>st</sup> day of July, 2010, by and between PECHANGA BAND OF LUISENO MISSION INDIANS, a sovereign government, (hereinafter referred to as "TRIBE"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, on behalf of the Fire Department (hereinafter referred to as "COUNTY").

WHEREAS, the TRIBE and COUNTY have entered into that certain Cooperative Agreement to Provide Fire Department Dispatch and Communication Services dated July 1, 2010 to coordinate efforts to protect the health and safety of the residents; and

WHEREAS, in order for the TRIBE to receive the fire department dispatch and communication services the TRIBE needs to obtain from COUNTY the Mobile Data Computer as provided herein; and

WHEREAS, the intent of this Agreement is to define the respective roles and responsibilities of each party; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

I. SCOPE OF AGREEMENT

TRIBE has agreed to pay for hardware, software, licensing, installation, and maintenance of Mobile Data Computers (hereinafter referred to as "MDC"). Each MDC will be utilized for emergency, fire protection, rescue, and medical aid purposes within Pechanga Reservation and Riverside County and under the guidance of COUNTY.

A. EQUIPMENT

TRIBE hereby agrees to obtain from COUNTY, and COUNTY hereby agrees to provide to TRIBE, the equipment as outlined and described in Exhibit "MDC-1", consisting of one (1) page, attached hereto and by this reference incorporated herein, for an aggregate sum of \$28,410.00, payable immediately upon execution of this Agreement to COUNTY. This agreement is conditioned upon the approval by the Board of Supervisors for the County of Riverside and the Pechanga Band of Luiseno Mission Indians Tribal Council.

\_\_\_\_\_  (Check only if applicable, and initial to acknowledge)  
Additional terms for the Frame Relay Costs as set forth in Exhibit "MDC-2", consisting of

one (1) page, attached hereto and by this reference incorporated herein and shall apply to this agreement when the installation of a Frame Relay must be done.

B. ANNUAL PAYMENTS

The annual maintenance, repair, support, and licensing costs as itemized on Exhibit "MDC-1" shall be billed on an annual basis, based on a July 1 to June 30 fiscal year. COUNTY shall present an invoice to the TRIBE by June 1<sup>st</sup> of the current year, for the cost of these services as shown on Exhibit "MDC-1", which is a part of this Agreement by attachment. TRIBE shall pay each invoice within thirty (30) days after receipt thereof.

C. GRANT OF LICENSE

For and in consideration of the commitments of COUNTY and subject to the fulfillment by TRIBE of all of its obligations set forth in this Agreement, COUNTY hereby grants to TRIBE a non-exclusive, non-transferable, license to use the software installed on each MDC. TRIBE may not sell, lease, license or otherwise transfer any rights therein, nor use or exploit, for any other use or purpose except as expressly set forth above. COUNTY shall maintain sole and complete control of all licensing agreements and software installed on each MDC.

D. SYSTEM UPGRADES PRIOR TO INSTALLATION

COUNTY agrees that should it make any changes, upgrades or improvements to its standard equipment configuration between the date of execution of this Agreement and the date of actual system installation, such improvements shall be incorporated into the system at no added cost.

E. INSTALLATION

With respect to the installation of each MDC, mounting hardware components and installation will be the responsibility of the TRIBE as set forth in Exhibit "MDC-1". Hardware will meet COUNTY specifications. Installation will be performed by a COUNTY approved vendor.

F. OWNERSHIP

COUNTY shall maintain ownership of each MDC, including but not limited to hardware, accessories, software, and license.

G. MAINTENANCE AND/OR REPLACEMENT

TRIBE agrees to maintain the daily care and usage of each MDC with due diligence. TRIBE will be liable for each MDC if clearly damaged by negligent and/or wrongful misuse by the TRIBE or its employees. COUNTY agrees at its discretion to

repair or replace all or any MDC as needed for reasonable wear and tear, or for unforeseen and unintentional damage or loss, not covered under warranty, with costs to be discussed and agreed upon between TRIBE and COUNTY, and billed to TRIBE at actual cost.

## II. TERM

This Agreement shall be in effect as of the day and year hereinabove first written, and will continue thereafter for three (3) years. The license granted by COUNTY to TRIBE hereunder shall become effective upon the execution and delivery of this Agreement by each of the parties hereto and shall continue until the expiration of this Agreement.

## III. TERMINATION

Either party may terminate this Agreement by giving written notice to the other party or by mutual agreement. Upon termination of this agreement, TRIBE agrees to return to COUNTY, all equipment and software described in Exhibit "MDC-1" in good, working condition, except for reasonable wear and tear. COUNTY will depreciate the equipment and software based on a three (3) year depreciation schedule (60 equal months). If termination of this agreement occurs prior to the full depreciation of the equipment, COUNTY will issue payment to TRIBE based on the balance of the depreciation value prior to the TRIBE returning the equipment and software to COUNTY.

Notwithstanding the provision above, this Agreement and the limited licenses granted by COUNTY to TRIBE may be terminated by either party upon the failure of the other party hereto to perform or fulfill, at the time and in the manner herein provided, and material obligation or condition required to be performed or fulfilled by such party hereunder. Any such failure, upon its occurrence, shall constitute a breach, and termination shall be effective immediately following not less than thirty (30) days after written notice thereof from the non-breaching party.

## IV. ASSIGNMENT

TRIBE shall not have the right to assign or otherwise transfer any of its rights or obligations under this Agreement, except with the written consent of the other party. Any prohibited assignment or attempted assignment shall be null and void.

## V. ACKNOWLEDGEMENTS AND WARRANTIES

TRIBE hereby acknowledges that COUNTY is not the manufacturer of the equipment. TRIBE does hereby assign to COUNTY, subject to and effective only upon receipt by TRIBE of the purchase price for the equipment set forth above, all of TRIBE rights under the original equipment manufacturer's warranty relating to the equipment, a copy of which warranty will be included with the equipment delivered to COUNTY.

COUNTY will provide warranty support to TRIBE as outlined in the original equipment manufacturers warranty.

#### VI. MUTUAL INDEMNIFICATION

TRIBE shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of TRIBE, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of TRIBE, its officers, agents, employees, subcontractors, agents or representatives from this Agreement. TRIBE shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives in any claim or action based upon such alleged acts or omissions.

COUNTY shall indemnify and hold harmless the TRIBE, its elected and appointed officials, directors, officers, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of COUNTY, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the negligent performance or intentional acts of COUNTY, its officers, agents, employees, subcontractors, agents or representatives from this Agreement. COUNTY shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the TRIBE, elected and appointed officials, employees, agents and representatives in any claim or action based upon such alleged acts or omissions.

#### VII. FORCE MAJEURE

If either party's performance of any of its obligations hereunder are delayed or impaired by reason of any Act of God, or, civil disturbance, strike, adverse weather condition, inability to arrange for or delays in transportation, unavoidable casualty, inability to acquire or delays in acquiring any component from a manufacturer or supplier, inability to obtain or delays in obtaining any permits or any law, rule or order of any governmental agency or official or any cause not reasonably within either party's control including without limitation the non-renewal or termination of or inability to obtain license of any of the application programs, and not due to any fault, neglect, act or omission on the part of either party, shall be entitled to an extension of time for completion of same for a

period equivalent to the time lost by reason thereof; provided, however, that such party gives the other party notice thereof within five (5) business days (unless circumstances require immediate notification) of the commencement of such claim of delay or impairment.

VIII. ENTIRE AGREEMENT

This Agreement, including any Exhibits attached hereto and by this reference incorporated herein, constitutes the entire Agreement between the parties with respect to the subject matter hereof, and supersedes all previous proposals, oral or written, and all negotiations, conversation or discussions between the parties related to this Agreement. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute a waiver of any other provision, whether or not similar. No waiver or consent shall constitute a continuing waiver or consent or commit either party to provide a waiver in the future except to the extent specifically set forth in writing. No waiver shall be binding unless executed in writing by the party making the waiver. In the event the agreement is determined to be void in part, the remainder of the agreement shall survive.

IX. AMENDMENT AND MODIFICATION

This Agreement shall not be modified, amended, rescinded, canceled or waived, in whole or in part, except by written amendment signed by each of the parties hereto. Any modification or amendment to this Agreement shall be of no force and effect unless it is in writing and signed by both parties.

X. DELIVERY OF NOTICES

Any notices to be served pursuant to this Agreement shall be considered delivered when deposited in the United States mail and addressed to:

RIVERSIDE COUNTY FIRE  
DEPARTMENT  
County Fire Chief  
210 W. San Jacinto Ave.  
Perris, CA 92570

PECHANGA BAND OF  
LUISENO MISSION INDIANS  
Tribal Council  
P.O. Box 1477  
Temecula, CA 92593

Provisions of this section do not preclude any notices being delivered in person to the addresses shown above. Delivery in person shall constitute service hereunder, effective when such service is made.

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[Signature Provisions on following page]

IN WITNESS WHEREOF, the duly authorized officials of the parties hereto have, in their respective capacities, set their hands as of the date first hereinabove written.

Dated: Oct. 22, 2010

PECHANGA BAND OF  
LUISENO MISSION INDIANS

By: *Mark Macarro*  
MARK MACARRO  
Tribal Chairman

ATTEST:

APPROVED AS TO FORM:

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

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

(SEAL)

Dated: \_\_\_\_\_

COUNTY OF RIVERSIDE

By: \_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

APPROVED AS TO FORM:  
PAMELA J. WALLS,  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By: *Synthia M. Gunzel*  
SYNTHIA M. GUNZEL  
Deputy County Counsel

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

(SEAL)

H:\COOP AGREEMENTS-LEASES-MOU'S\PECHANGA\PECHANGA Mobile purchase use agmt - occc-rcfd ver 3 031110.doc

## **EXHIBIT "MDC-1 "**

### **COST FOR MOBILE DATA COMPUTING**

The cost for Mobile Data Computing including call routing includes the following:

- Panasonic toughbook – 18 or equivalent
- RVC Fire's standard compliment of software to support GST to Altaris CAD interface
- Software upgrades as scheduled throughout RVC Fire
- EVDO wireless cell card

Mounting hardware components and installation will be the responsibility of the subscribing agency. Hardware will meet RVC Fire specifications. Installation will be performed by an RVC Fire approved vendor. RVC Fire will maintain the MDC to its specifications for as long as the hardware is supported. There is no escrow account or fixed replacement cycle. The MDC is support incident routing and enhanced response times, no additional software is authorized.

Implementation estimate per MDC \$5,787.00  
Estimated annual connectivity fee \$725.00





EXHIBIT "MDC-2 "

Priced by Teri Rolon  
7/12/2010

Pricing Worksheet For County of Riverside  
Frame Relay Quote  
5 year contract prices used

BUDGETARY PRICING

Loc A: \_\_\_\_\_

Loc Z: \_\_\_\_\_

Rate Elements - Thru contract term	Qty.	Monthly Unit	Monthly Total	Install Unit	Install Total
Frame Relay 128k w/ 75% CIR	1	\$165.00	\$165.00	\$0.00	\$0.00
			\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00
<b>Total</b>		<b>Monthly</b>	<b>\$165.00</b>	<b>Install</b>	<b>\$0.00</b>

NO SR provided

Notes:

1. Riverside County contract rates used.
2. Prices quoted do not include applicable taxes & surcharges. See sales tax exemption, attached.
3. Prices quoted are for installs at the minimum point of entry.
4. Prices quoted are budgetary and subject to change without prior notification.
5. Information contained in this proposal is not to be shared with Verizon competitor's without written permission from the author.

8-Oct-07

Cathy Egan - sales engineer

Implementation Estimate RCIT labor \$600.00, router \$2500.00, printer \$150.00  
 Frame Relay circuit is to be used exclusively for rip and run dispatch printer  
 No additional hardware is provided or authorized

The Pechanga Fire Department ("PFD") is a federally recognized Indian tribe or an instrumentality organized thereunder and, therefore, is exempt from California state sales and use taxes on the purchase of tangible personal property delivered to the Reservation. In accordance with this exempt status, the price of any goods or materials under this Agreement shall not include California State sales or use taxes. Any goods or equipment under this Agreement shall be shipped FOB destination and title to such goods or equipment, where applicable, shall transfer to PFD on the Reservation. All shipments, all invoices, bills of lading and other documents evidencing a sale to PFD must specifically indicate that title to the item(s) shipped does not pass to PFD until delivered to PFD on the Reservation.