



**MEETING AGENDA**  
**REGULAR MEETING OF THE GOVERNING BOARD OF SRFEC**

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Tuesday, September 26, 2023,

9:00 AM

Cosumnes CSD Administrative Services  
8820 Elk Grove Blvd, Elk Grove, CA 9562

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**THE BOARD WILL CONVENE IN AN OPEN SESSION AT 9:00 A.M.**

Call to Order

Chairperson

Roll Call of Member Agencies

Clerk of the Board

**PRIMARY BOARD MEMBERS**

Chad Wilson, Chairperson

Assistant Chief, Folsom Fire Department

Scott Williams, Vice Chairperson

Assistant Chief, Sacramento Fire Department

Christopher Greene, Board Member

Assistant Chief, Sacramento Metropolitan Fire District

Troy A. Bair, Board Member

Deputy Chief, Cosumnes Community Services District

**PLEDGE OF ALLEGIANCE**

AGENDA UPDATE: An opportunity for Board members to (1) reorder the agenda; and (2) remove agenda items that are not ready for presentation and/or action at the present Board meeting.

PUBLIC COMMENT: An opportunity for members of the public to address the Governing Board on items within the subject matter jurisdiction of the Board. The duration of the comment is limited to three (3) minutes.

**PRESENTATION:**

None

**RECESS TO CLOSED SESSION:**

1. CONFERENCE WITH LABOR NEGOTIATOR\*

Pursuant to Government Code Section 54957.6

Center Negotiator(s)

Lindsay Moore, Counsel

Josh Freeman, Chief Executive Director

Employee Organization(s)

Teamsters Local 150

Teamsters Local 856

Unrepresented Administrators

2. PERSONNEL ISSUES\*

Pursuant to California Governing Code Section 54957

Employee Evaluation:

Chief Executive Director

Operations Manager

\*INDICATES NO ATTACHMENT

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## Administrative Manager

## 3. CONFERENCE WITH LEGAL COUNSEL: Anticipated Litigation\*

Pursuant to California Government Code Section 54956.9(b) The Board will meet in closed session to discuss significant exposure to litigation.

One (2) potential case(s).

**RECONVENE TO OPEN SESSION:**

**CONSENT AGENDA:** Matters of routine approval including, but not limited to Board meeting synopsis, payroll reports, referral of issues to the committee, and other consent matters. The Consent Agenda is acted upon as one unit unless a Board member requests separate discussion and/or action.

- |  |         |
|--|---------|
| 1. Regular Board Meeting Synopsis – August 22, 2023    | Page 4  |
| 2. Regular Board Meeting Synopsis – September 12, 2023 | Page 10 |

PROPOSED ACTION: Motion to Approve Consent Agenda

**STAFF REPORTS/ACTION ITEMS:**

- |   |         |
|---|---------|
| 1. <b>SUBJECT:</b> Smart Response Technologies - Delphini ( <i>Staff Report 23-26</i> ) | Page 14 |
|---|---------|

**Recommendation:**

- a. Approve the contract and subsequent implementation of Delphini Intelligence software.

- |   |         |
|---|---------|
| 2. <b>SUBJECT:</b> Center Parking Lot Fencing Project ( <i>Staff Report 23-27</i> ) | Page 23 |
|---|---------|

**Recommendation:**

- a. Approve the expenditure not exceeding \$80,000 for the purchase and installation of an 8' steel fence encompassing the Center parking lot.
- b. Allow the CED to enter into a MOU with IBEW Local 340 for the installation of the fence on their property and address cost-sharing for the project.
- c. Allow the CED to enter into contract with Linmoore Fencing and Iron Works Inc.

**DISCUSSION/POSSIBLE ACTION:**

None

**INFORMATION:**

None

**CORRESPONDENCE:**

None

\*INDICATES NO ATTACHMENT

**CENTER REPORTS:**

- 1. Operations Manager Todd\*
- 2. Administration Manager Shmatovich\*
- 3. Chief Executive Director Freeman\*

**ITEMS FOR DISCUSSION AND POTENTIAL PLACEMENT ON A FUTURE AGENDA:**

None

**BOARD MEMBER COMMENTS:**

None

**ADJOURNMENT:**

The next scheduled Board Meeting is Tuesday, October 10, 2023

LOCATION: Sacramento Metropolitan Fire District  
10545 Armstrong Avenue, CA 95655

TIME: 9:00 a.m.  
Board Members, Alternates, and Chiefs

POSTED: 10230 Systems Parkway, Sacramento, CA 95827  
[www.sfecc.ca.gov](http://www.sfecc.ca.gov)  
10545 Armstrong Ave, Mather, CA 95655-4102

**DISABILITY INFORMATION:**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Chief Executive Director’s Office at (916) 228-3070. Notification at least 48 hours prior to the meeting will enable the Center to make reasonable arrangements to ensure accessibility to this meeting.

**POSTING:**

This is to certify that on September 22, 2023, a copy of the agenda was posted at the following locations:

- 10230 Systems Parkway, Sacramento, CA 95827
- 10411 Old Placerville Rd – Suite #210, Sacramento, CA 95827
- The Center’s website at – [www.sfecc.ca.gov](http://www.sfecc.ca.gov)
- 10545 Armstrong Ave, Mather, CA 95655-4102

ATTEST:



KRISTIN D. ELLIS  
CLERK OF THE BOARD

\*INDICATES NO ATTACHMENT

**MEETING MINUTES  
GOVERNING BOARD MEETING**

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**Tuesday, August 22, 2023**

**9:00 AM**

**Sacramento Metropolitan Fire District  
10545 Armstrong Avenue, CA 95655**

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**GOVERNING BOARD MEMBERS PRESENT**

Scott Williams, Vice Chairperson	Assistant Chief, Sacramento Fire Department
Christopher Greene, Board Member	Assistant Chief, Sacramento Metropolitan Fire District
Troy A. Bair, Board Member	Deputy Chief, Cosumnes Community Services District

**GOVERNING BOARD MEMBERS ABSENT**

Chad Wilson, Chairperson	Assistant Chief, Folsom Fire Department
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**COMMUNICATIONS CENTER MANAGEMENT**

Josh Freeman	Executive Director
Julee Todd	Operations Manager

**OTHERS IN ATTENDANCE**

Lindsay Moore	Counsel, SRFECC
Kristin Ellis	Executive Assistant, SRFECC
Mellisa Bernett	Office Specialist, SRFECC

**NOTE:** Because the Governor declared a State of Emergency to exist in California as a result of the threat of COVID-19 (aka the Coronavirus) attendance by the public at this meeting was by telephonic means only and was made accessible to members of the public solely through the link set forth below.

The meeting was called to order and roll call was taken at 9:00 a.m.

1. The Pledge of Allegiance was recited.
2. There were no agenda updates.
3. There was no public comment.

**PRESENTATION:**

None

**CLOSED SESSION:**

1. CONFERENCE WITH LABOR NEGOTIATOR\*  
Pursuant to Government Code Section 54957.6

Center Negotiator(s)	Lindsay Moore, Counsel Josh Freeman, Chief Executive Director
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Employee Organization(s)	Teamsters Local 150 Teamsters Local 856
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\*INDICATES NO ATTACHMENT

## Unrepresented Administrators

### 2. PERSONNEL ISSUES\*

Pursuant to California Governing Code Section 54957

- a. Employee Evaluation: Chief Executive Director  
Administration Manager  
Operations Manager
- b. Employee Appointment: Medical Director
- c. Discipline/Dismissal/Release: One (1) position

### 3. CONFERENCE WITH LEGAL COUNSEL: Anticipated Litigation\*

Pursuant to California Government Code Section 54956.9 (b) The Board will meet in closed session to discuss significant exposure to litigation.

One (1) potential case(s)

Closed session was convened at 9:02 a.m.

Open session was reconvened at 9:19 a.m.

- 1. The Board met in closed session; no formal action was taken.
- 2. The Board met in closed session; no formal action was taken.
- 3. The Board met in closed session; no formal action was taken.

**CONSENT AGENDA:** Matters of routine approval including, but not limited to Board meeting synopsis, payroll reports, referral of issues to committee, other consent matters. A Consent Agenda is acted upon as one unit unless a Board member requests separate discussion and/or action.

None

### **ACTION ITEMS:**

#### 1. Laptop Package Purchase (Staff Report 23-17)

- a. A motion was made by Chief Bair and seconded by Chief Greene to approve Launch Quote #2023-0801 for six (6) replacement laptops.

**AYES:** Sacramento Fire Department, Sacramento Metropolitan Fire, Cosumnes Community Services District

**NOES:**

**ABSENT:** Folsom Fire

**ABSTAIN:**

Motion passed.

#### 2. Managed Services Contract Renewal – Launch Inc. (Staff Report 23-19)

- a. A motion was made by Chief Greene and seconded by Chief Bair to approve the renewal of Launch's Statement of Work to the original services agreement dated July 1, 2023, between Launch CG Inc. and SRFEC by June 30, 2024.

**NOES:**

**ABSENT:** Folsom Fire

\*INDICATES NO ATTACHMENT

ABSTAIN:

Motion passed.

3. Launch Statement of Work – Backup Implementation (Staff Report 23-20)

- a. A motion was made by Chief Bair and seconded by Chief Greene to approve Launch's SOW for the project of migrating the center's existing Veeam Backup Solution from on-premises to Azure Blob Storage, using cloud-based storage for data protection; establishing reliable backup, data storage, and streamlined disaster recovery.

AYES: Sacramento Fire Department, Sacramento Metropolitan Fire, Cosumnes Community Services District

NOES:

ABSENT: Folsom Fire

ABSTAIN:

Motion passed.

4. CSI Telecommunication Inc. VHF Proposal (Staff Report 23-21)

- a. A motion was made by Chief Greene and seconded by Chief Bair to approve the proposal for the following items:
  - Create Simulcast Design for Paging Channel (154.190 MHz)
  - Backhaul Path Design to Simulcast Sites
  - VHF Combining Review at SRFEC

AYES: Sacramento Fire Department, Sacramento Metropolitan Fire, Cosumnes Community Services District

NOES:

ABSENT: Folsom Fire

ABSTAIN:

Motion passed.

5. CED Spending Authority Revision (Staff Report 23-22)

- a. A motion was made by Chief Bair and seconded by Chief Greene to approve the increase of the CED spending authority in board policy 3.017 - Procurement from \$5,000 to \$25,000 and to add a spending authority of \$5,000 or less for the Administration and Operations Managers.

AYES: Sacramento Fire Department, Sacramento Metropolitan Fire, Cosumnes Community Services District

NOES:

ABSENT: Folsom Fire

ABSTAIN:

Motion passed.

6. PulsePoint Upgrade (Staff Report 23-23)

- a. A motion was made by Chief Williams and seconded by Chief Bair to approve an upgrade to the current PulsePoint annual subscription and allow the CED to execute the revised contract.

AYES: Sacramento Fire Department, Sacramento Metropolitan Fire, Cosumnes Community Services District

NOES:

ABSENT: Folsom Fire

ABSTAIN:

Motion passed.

**DISCUSSION/POSSIBLE ACTION:**

None

**INFORMATION:**

None

**CENTER REPORTS:**

1. Operations Manager Todd

TRAINING UPDATE:

Currently, the Center has six dispatchers in PODs that are live and taking calls; with one in MAIN Training. Due to a call volume decrease, all other training has been placed on hold.

STAFFING:

In the process of determining the next steps and have yet to schedule a date for a fall academy. Additional information soon to follow.

PROJECTS:

Staff are evaluating options, and layouts, receiving feedback for the bullpen remodel. In addition, a committee was created to evaluate different options for streamlining employee performance evaluations.

SERVICE ANNIVERSARIES:

Yvonne Vazquez – 6 years

Jenna Walkingstick – 3 years

2. Administration Manager Shmatovich

None

3. Chief Executive Director Josh Freeman

Chief Freeman wanted to speak on behalf of Administration Manager, Marissa Shmatovich, who expressed her gratitude to the finance staff for the countless hours of work that came with the fiscal year budget close out and now preparing for the audit.

The Chief acknowledged Operations Manager Todd's report on staffing, academy dates, and bullpen plans.

Lastly, he mentioned continued efforts with PERATON on the new CAD implementation; and is looking forward to receiving the report on Dr. Miller's findings that took prior to his arrival.

**CORRESPONDENCE:**

None

**ITEMS FOR DISCUSSION AND POTENTIAL PLACEMENT ON A FUTURE AGENDA:**

None

**BOARD MEMBER COMMENTS:**

1. Chief Greene

Chief Greene congratulated those who received their service recognitions.

The Chief expressed his gratitude for meeting with SRFECC's executive team to assist in educating him about the board process and appreciated the time spent.

2. Chief Bair

Chief Bair thanked the staff for their work on the fiscal year budget closeout.

The Chief congratulated staff on their service anniversaries. He expressed his appreciation and gratitude to Denise Tackett, Kylee Soares, and the Center for their assistance in processing IROQ requests.

3. Chief Williams

Chief Williams congratulated Yvonne Vazquez and Jenna Walkingstick on their service anniversaries.

The Chief continued to express his appreciation to the Center for doing a "standup job" and was impressed with the new SOGs.



Lastly, he welcomed Office Specialist Mellisa Bennett's return from maternity leave, congratulating her on the birth of her daughter.

**ADJOURNMENT:**

The meeting was adjourned at 9:37 a.m.

ATTEST:



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KRISTIN DIANE ELLIS  
CLERK OF THE BOARD

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CHAD WILSON  
CHAIRPERSON

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SCOTT WILLIAMS  
VICE CHAIRPERSON

# MEETING MINUTES GOVERNING BOARD MEETING

Tuesday, September 12, 2023,

9:00 AM

Sacramento Metropolitan Fire District  
10545 Armstrong Avenue, CA 95655

## GOVERNING BOARD MEMBERS PRESENT

Chad Wilson	Assistant Chief, Folsom Fire Department
Scott Williams, Vice Chairperson	Assistant Chief, Sacramento Fire Department
Christopher Greene, Board Member	Assistant Chief, Sacramento Metropolitan Fire District
Troy A. Bair, Board Member	Deputy Chief, Cosumnes Community Services District

## GOVERNING BOARD MEMBERS ABSENT

None

## COMMUNICATIONS CENTER MANAGEMENT

Josh Freeman	Executive Director
Julee Todd	Operations Manager
Marissa Shmatovich	Administration Manager

## OTHERS IN ATTENDANCE

Lindsay Moore	Counsel, SRFECC
Dan Quiggle	Deputy Chief, Cosumnes Community Services District
Kristin Ellis	Executive Assistant, SRFECC
Casey Quintard	Dispatcher Supervisor, SRFECC
Theresa Miller	Dispatcher II, SRFECC
Bill Mueller	Integrated Communications Strategies, LLC
Jerry Azevedo	Integrated Communications Strategies, LLC

NOTE: Because the Governor declared a State of Emergency to exist in California as a result of the threat of COVID-19 (aka the Coronavirus) attendance by the public at this meeting was by telephonic means only and was made accessible to members of the public solely through the link set forth below.

The meeting was called to order and roll call was taken at 9:02 a.m.

1. The Pledge of Allegiance was recited.
2. There were no agenda updates.
3. There was no public comment.

## PRESENTATION:

1. ENP Challenge Coin – Elizabeth Strong, presented by Operations Manager, Julee Todd.
2. AAR Independence Day 2023 – Presented by Dispatch Supervisor, Casey Quintard.
3. Strategic Plan Presented by Integrated Communications Strategies, LLC

## CLOSED SESSION:

\*INDICATES NO ATTACHMENT

1. CONFERENCE WITH LABOR NEGOTIATOR\*

Pursuant to Government Code Section 54957.6

Center Negotiator(s)

Lindsay Moore, Counsel  
Josh Freeman, Chief Executive Director

Employee Organization(s)

Teamsters Local 150  
Teamsters Local 856  
Unrepresented Administrators

2. PERSONNEL ISSUES\*

Pursuant to California Governing Code Section 54957

a. Employee Evaluation: Chief Executive Director  
Administration Manager  
Operations Manager

b. Employee Appointment: Medical Director

c. Discipline/Dismissal/Release: One (1) position

3. CONFERENCE WITH LEGAL COUNSEL: Anticipated Litigation\*

Pursuant to California Government Code Section 54956.9 (b) The Board will meet in closed session to discuss significant exposure to litigation.

One (1) potential case(s)

The closed session was convened at 9:21 a.m.

The open session was reconvened at 10:29 a.m.

1. The Board met in closed session; no formal action was taken.
2. The Board met in closed session; no formal action was taken.
3. The Board met in closed session; no formal action was taken.

**CONSENT AGENDA:** Matters of routine approval including, but not limited to Board meeting synopsis, payroll reports, referral of issues to committee, other consent matters. A Consent Agenda is acted upon as one unit unless a Board member requests separate discussion and/or action.

1. A motion was made by Chief Williams and seconded by Chief Greene to approve the Consent Agenda for the following:

a. Regular Board Meeting Synopsis – July 25, 2023

AYES: Sacramento Fire Department, Sacramento Metropolitan Fire, Cosumnes  
Community Services District

NOES:

ABSENT: Folsom Fire

ABSTAIN:

Motion passed.

**ACTION ITEMS:**

1. AXIM GIS Support Block (Staff Report 23-24)

\*INDICATES NO ATTACHMENT

- a. A motion was made by Chief Williams and seconded by Chief Wilson to approve the renewal of the GIS support block through AXIM for \$60,001 for GIS support.

AYES: Sacramento Fire Department, Sacramento Metropolitan Fire, Cosumnes Community Services District, Folsom Fire

NOES:  
ABSENT:  
ABSTAIN:

Motion passed.

2. SRFECC 2030 Strategic Blueprint and Growth Strategy (Staff Report 23-25)

- a. A motion was made by Chief Bair and seconded by Chief Wilson to approve the 2030 Strategic Blueprint and Growth Strategy and adopt Resolution 23-03 accepting SRFECC's 2023 Strategic Plan.

NOES:  
ABSENT:  
ABSTAIN:

Motion passed.

**DISCUSSION/POSSIBLE ACTION:**

1. Chief Bair requested a continued emphasis on data visualization in infographics to assist as a reference for call processing data during the holiday seasons to see how the system and Center are functioning.

**INFORMATION:**

None

**CENTER REPORTS:**

1. Chief Executive Josh Freeman

Chief Freeman thanked the board for their support of the Strategic Plan. He expressed his gratitude to Chief Bair for his work with ICS prior to returning to CCSD. The Chief thanked ICS for their professionalism, hard work, and dedication to producing an aesthetically pleasing document that will benefit SRFECC for years to come.

**CORRESPONDENCE:**

None

**ITEMS FOR DISCUSSION AND POTENTIAL PLACEMENT ON A FUTURE AGENDA:**

None

**BOARD MEMBER COMMENTS:**

\*INDICATES NO ATTACHMENT

1. Chief Bair

Chief Bair expressed his gratitude to all staff and ICS for their work on the STRAT Plan which will give the Center a great “roadmap” for the future.

The Chief gave warm congratulations to Elizabeth Strong for her dedication to all her ENP work.

2. Chief Greene

Chief Greene is looking forward to implementing the STRAT Plan.

The Chief praised Casey Quintard for his work and appreciated his presentation for July’s AAR.

He went on to thank Operations Manager Julee Todd, and Casey Quintard for their support in preparation for the California Capital Airshow.

3. Chief Williams

Chief Williams congratulated Elizabeth Strong on her well-deserved accomplishment.

The Chief continued by expressing appreciation for the Center and is honored to be a part of this organization. He thanked Casey Quintard for his work on the “remarkable” July 4<sup>th</sup> weekend confirming that 4,000 firework calls were diverted (just from his organization) before being dispatched. He is looking forward to collaborating with other agencies as they learn from the Center and look to our model as a resource.

4. Chief Wilson

Chief Wilson echoed the board members’ comments on Elizabeth Strong and Casey Quintard’s achievements, mentioning that staff’s accomplishments are indicative of the health of an organization.

The Chief is encouraged by the STRAT plan and thanked staff for their continued efforts and dedication towards the blueprint from ICS throughout 2030 and is excited about the outcome.

**ADJOURNMENT:**

The meeting was adjourned at 9:37 a.m.

ATTEST:



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KRISTIN DIANE ELLIS  
CLERK OF THE BOARD

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CHAD WILSON  
CHAIRPERSON

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SCOTT WILLIAMS  
VICE CHAIRPERSON

\*INDICATES NO ATTACHMENT



## **Sacramento Regional Fire/EMS Communications Center**

10230 Systems Parkway, Sacramento, CA 95827-3007

[www.srfecc.ca.gov](http://www.srfecc.ca.gov)

### **STAFF REPORT (23-26)**

DATE: September 26, 2023  
TO: Board of Directors  
FROM: Josh Freeman, Chief Executive Officer  
BY: Julee Todd, Operations Manager  
SUBJECT: **SMART RESPONSE TECHNOLOGIES – DELPHINI**

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### **RECOMMENDATION**

The Board of Directors:

1. Approve the contract and subsequent implementation of Delphini Intelligence software.

### **BACKGROUND/ANALYSIS:**

The Center is continually evaluating new technology options to assist in unit safety and increase the efficiency of radio operations. Delphini is a real-time voice-to-text transcription that includes a keyword highlight function to draw the dispatcher's attention to critical words or phrases to decrease missed transmissions and reduce response time. The voice-to-text function may reduce the number of times units are asked to repeat their traffic, minimizing the delay from dispatchers accessing voice recordings to confirm what was said by a unit.

This project directly supports the 2030 Strategic Blueprint and Growth Strategy Focus Area 1. D. by modernizing the Center's technology and systems infrastructure and practices.

### **FINANCIAL ANALYSIS**

\$5,520.00 annual cost for 2-channel transcription with six (6) browser or mobile app access points.

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JULEE TODD  
OPERATIONS MANAGER

Staff Report recommendation authorized by:

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JOSH FREEMAN  
CHIEF EXECUTIVE DIRECTOR

Attachments: Quote - August 2, 2023  
Smart Technologies Subscription Agreement



**Smart Response™**  
Technologies

# Quote

726 E. Main St., Ste 117  
Lebanon, OH 45036

Date: 2 Aug 2023

**POC:**

Milan Mueller, CMO  
858-243-0039  
milan.mueller@smartresponsetech.com

**To:**

Sacramento Regional Fire/  
EMS Communications Center  
10230 Systems Parkway  
Sacramento, CA 95827  
Attn: Julee Todd, Operations Manager  
jtodd@srfecc.ca.gov, 916-228-3070

QUANTITY	DESCRIPTION	UNIT	UNIT COST	TOTAL
6	Delphini SaaS Annual Subscription: Simultaneous Browser and Mobile App Access; Radio Talk Groups Transcription with Key Words; 24/7 Help Desk Support	Annual	\$420.00	\$2,520.00
2	Delphini Radio Channel Access Annual Subscription	Annual	\$1,500.00	\$3,000.00
1	Installation, Set-up, Onboarding, and Training	Each	\$2,500.00	\$2,500.00
			Subtotal	<b>\$ 8,020.00</b>
	Less Discount:			<b>(\$2,500.00)</b>
			<b>TOTAL</b>	<b>\$ 5,520.00</b>

**Client will provide one donor radio for each Delphini Radio Channel Acces Subscription ordered. SRT will invoice upon receipt of signed quote or purchase order with payment due in 60 days. Client will issue payment or opt out at no cost with written notice and a 15-minute discussion with an SRT team member anytime prior to the payment due date. If client opts out, SRT will retrieve any installed hardware and cancel subscriptions.**

**ACCEPTANCE:** This Quote is accepted for order by: \_\_\_\_\_ Print Name: \_\_\_\_\_

Signature / Date: \_\_\_\_\_



## MASTER SUBSCRIPTION AGREEMENT

This Master Subscription Agreement (the "Agreement") is made and entered into by and between **SUBSCRIBER** and **SMART RESPONSE TECHNOLOGIES, INC.**, an Ohio corporation ("VENDOR").

Capitalized terms in the body of the Agreement are defined in Section 20. In consideration of the foregoing and the mutual covenants and conditions set forth below, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

### 1. INTRODUCTION

SUBSCRIBER agrees to the following terms and conditions governing SUBSCRIBER and SUBSCRIBER'S organization's use of the VENDOR online software solutions, collectively the "Service(s)", identified during the ordering process, developed, operated, and maintained by VENDOR, accessible [smartresponsetechnologies.net](http://smartresponsetechnologies.net) or another designated web site or IP address, or ancillary online or offline products and services provided to SUBSCRIBER by VENDOR, to which SUBSCRIBER are being granted access under this Agreement, including the VENDOR Technology and the Content.

### 2. SERVICES

#### 2.1. Subscription to the Services

Subject to the terms of this Agreement, VENDOR hereby grants to SUBSCRIBER a non-sublicensable, non-transferable, non-exclusive subscription to access and use the Services through the Smart Response Technologies.net Services by the number of trained Users for which SUBSCRIBER have paid the applicable subscription fee, in accordance with the Documentation and solely for SUBSCRIBER'S business purposes of creating reports or other output allowed by the Services.

#### 2.2. Additional Users

The SUBSCRIBER may during the term of the agreement and prior to the end of each quarter add additional trained users at no extra cost during that quarter. VENDOR and SUBSCRIBER shall perform a quarterly review of the SUBSCRIBER'S trained user accounts, at which time, the SUBSCRIBER shall either remove the additional trained users or agree to add them as paid users. If SUBSCRIBER wishes to add additional trained Users in ("**Additional Users**"), SUBSCRIBER must notify VENDOR. VENDOR shall make the Services available to the Additional trained Users on the terms and conditions set forth in this Agreement. With respect to Additional trained Users: (i) the term will be coterminous with the preexisting subscription term (either initial term or renewal term); and (ii) SUBSCRIBER will be responsible for any additional fees for the Additional trained Users as stated herein. All rights not expressly granted to SUBSCRIBER are reserved by VENDOR and its licensors.

#### 2.3. Restrictions

SUBSCRIBER shall not (i) license, sublicense, sell, resell, use as a service bureau, or otherwise use the Services for a third party's benefit, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service, VENDOR System, or the Content in any way; (ii) modify or make derivative works based upon the Services or the Content; (iii) create Internet "links" to the Services or "frame" or "mirror" any Content on any other server or wireless or Internet-based device; (iv) reverse engineer or decompile the Services or VENDOR System; (v) interfere with in any manner the Services or VENDOR System, or (vi) access the Services for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes. Users may only be signed in to two devices concurrently and shall not share login with another individual.

#### 2.4 Training

VENDOR will provide initial training either in-person or by video teleconference, at VENDOR's discretion. Training shall occur within ten (10) business days following set-up and installation of the system. Training may be for up to five (5) individuals with the structure to be "train the trainer".

SUBSCRIBER shall appoint: (1) an employee to serve as a primary contact with respect to this Agreement and who will have the authority to act as the SUBSCRIBER'S Training Provider in connection with matters pertaining to this Agreement (the "Training Provider"); and (2) said Training Provider shall be suitably skilled, experienced, and qualified to perform the Training Services once trained by the VENDOR.





SUBSCRIBER and Training Provider shall not without VENDOR's prior written consent (i) copy copyrighted material; (ii) use VENDOR's trademarks, trade names, or other designations in any promotion or publication; or (iii) use recording equipment in Training sessions.

SUBSCRIBER shall cause each of its employees who are receiving Training Services to execute a release of liability and assumption of risk.

SUBSCRIBER shall remain responsible and liable for: (1) the supervision, coordination, and performance of SUBSCRIBER'S Representatives in connection with this Agreement; and (2) all acts and omissions of SUBSCRIBER'S Representatives, each of which shall be ascribed to the SUBSCRIBER to the same extent as if such acts or omissions were by SUBSCRIBER itself. Any noncompliance by any SUBSCRIBER Representative with the provisions of this Agreement will constitute SUBSCRIBER'S breach hereof.

### **3. SUBSCRIBER'S RESPONSIBILITIES**

SUBSCRIBER is responsible for all activity occurring under SUBSCRIBER'S User accounts and shall abide by all applicable local, state, national and foreign laws, treaties, and regulations in connection with SUBSCRIBER'S use of the Services, including those related to data privacy, international communications, and the transmission of technical or personal data. SUBSCRIBER shall: (i) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Services, and will notify VENDOR promptly of any such unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to VENDOR immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by SUBSCRIBER or SUBSCRIBER'S Users; and (iii) not impersonate another VENDOR user or provide false identity information to gain access to or use the Services. SUBSCRIBER will not use SUBSCRIBER'S access to the Services to: (a) access or copy any data or information of other users without their consent; (b) harvest, collect, gather or assemble information or data regarding other users without their consent; (c) knowingly interfere with or disrupt the integrity or performance of the Services or the data contained therein; or (d) harass or interfere with another user's use and enjoyment of the Services.

### **4. CUSTOMER DATA**

#### **4.1. Customer Data**

VENDOR does not own any data, information, or material that SUBSCRIBER submits or make available to VENDOR or the Services, including, without limitation, data or information made available to VENDOR from SUBSCRIBER'S Smart Response Technologies.net instance ("Customer Data"). SUBSCRIBER, not VENDOR, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and VENDOR shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data, except to the extent caused by VENDOR's gross negligence or intentional misconduct. SUBSCRIBER are solely responsible for the Customer Data and will not negligently and/or maliciously provide, post or transmit any Customer Data or any other information, data or material (to include but not limited to code and/or software) that: (a) infringes or violates any intellectual property rights, publicity/privacy rights, law or regulation; or (b) contains any viruses or programming routines intended to damage, surreptitiously intercept or expropriate any system, data or personal information. VENDOR may take remedial action if Customer Data violates this **Section 4.1**; however, VENDOR is under no obligation to review Customer Data for accuracy or potential liability.

#### **4.2. Processing of Data.**

SUBSCRIBER hereby expressly consent to VENDOR's processing of Customer Data, including any personally identifiable data contained therein, SUBSCRIBER provide to VENDOR, or which may be collected by VENDOR from SUBSCRIBER'S Smart Response Technologies.net instance according to this Agreement and VENDOR's Privacy Policy located at <http://www.SmartResponseTechnologies.net> ("Privacy Policy").

#### **4.3. Smart Response Technologies.net Instance**

SUBSCRIBER acknowledge and agree that in order to provide Services to SUBSCRIBER, SUBSCRIBER must allow VENDOR brief but periodic access to SUBSCRIBER'S Smart Response Technologies.net account to retrieve, manipulate, and modify Customer Data. SUBSCRIBER hereby grant VENDOR permission to access SUBSCRIBER'S Smart Response Technologies.net account solely as is necessary to provide Services. If VENDOR cannot for any reason access SUBSCRIBER'S Smart Response Technologies.net



account, VENDOR may not be able to provide SUBSCRIBER Services, and VENDOR will be excused from any nonperformance of Services arising from SUBSCRIBER'S failure to allow VENDOR access to SUBSCRIBER'S Smart Response Technologies.net account.

#### **4.4. Customer Data and Third Parties**

Notwithstanding any other provision in this Agreement, VENDOR may provide certain User registration and statistical information to include but not limited to usage or User traffic patterns in aggregate form to third parties, provided that such information does not include SUBSCRIBER or personally identifying information. VENDOR may access SUBSCRIBER'S User accounts, including without limitation Customer Data, to respond to service or technical problems.

#### **4.5. Suggestions, Ideas and Feedback**

VENDOR shall have the unrestricted rights to use or act upon any suggestion, ideas, enhancement requests, feedback, recommendations, or other information provided by SUBSCRIBER or any other party relating to the Service to the extent it does not constitute Confidential Information of SUBSCRIBER.

### **5. SUPPORT, SERVICE LEVELS, AND SECURITY**

#### **5.1. Support**

Support services provided by VENDOR in connection with the Service under this Agreement are set forth at [www.smartresponsetech.com](http://www.smartresponsetech.com). VENDOR reserves the right to modify the support services in its reasonable discretion from time to time, which modifications shall become effective upon posting to the above URL.

#### **5.2. Service Levels**

Subject to the terms of this Agreement, VENDOR shall use commercially reasonable efforts to make the Service generally available 24/7 (24 hours a day, 7 days a week), except for: (i) planned downtime of the VENDOR Service, which shall be any period outside of the hours of 6 am to 9 pm, Eastern Standard Time, Monday through Friday and 8 am to 5 pm Eastern Standard Time, Saturday, Sunday and Holidays, for which VENDOR uses commercially reasonable efforts to give eight (8) hours or more notice that the VENDOR Service will be unavailable; and (ii) downtime caused by circumstances at the VENDOR's host sites which are beyond VENDOR's reasonable control, including without limitation, the Smart Response Technologies.net Service, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, telecommunications or network failures or delays, computer failures involving hardware or software not within VENDOR's possession or reasonable control and acts of vandalism (including network intrusions and denial of service attacks), but only if such unavailability results notwithstanding the exercise of reasonable care and diligence to avoid or mitigate the same in anticipation of or in response to such causes. SUBSCRIBER is solely responsible for providing, at its own expense, all network access to the VENDOR Service, including, without limitation, acquiring, installing, and maintaining all telecommunications equipment, hardware, software, and other equipment as may be necessary to connect to, access and use the VENDOR Service.

#### **5.3. Security**

"Appropriate Security Measures" means commercially reasonable technical, physical, and procedural controls to protect Customer Data against destruction, loss, alteration, unauthorized disclosure to third parties or unauthorized access by employees or contractors employed by VENDOR, whether by accident or otherwise. VENDOR has implemented Appropriate Security Measures and maintains the VENDOR Service at reputable third-party Internet service providers and hosting facilities. VENDOR does not control, and has no responsibility or liability for, security issues caused by the Smart Response Technologies.net Service. SUBSCRIBER acknowledges and agrees that, notwithstanding such Appropriate Security Measures, use of or connection to the Internet provides the potential opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to the Services and Customer Data. SUBSCRIBER acknowledge SUBSCRIBER reviewed this Section 5.3 and determined these security procedures and measures are adequate with respect to SUBSCRIBER'S use of the Services.

### **6. INTELLECTUAL PROPERTY OWNERSHIP**

#### **6.1. Ownership**

VENDOR alone (and its licensors, where applicable) shall own all right, title, and interest, including all related Intellectual Property Rights, in and to the VENDOR Technology, the Content and the Services and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by SUBSCRIBER or any other party relating to the



Services. This Agreement is not a sale and does not convey to SUBSCRIBER any rights of ownership in or related to the Service, the VENDOR Technology or the Intellectual Property Rights owned by VENDOR. The VENDOR name, the VENDOR logo, and the product names associated with the Services are trademarks of VENDOR or third parties, and no right or license is granted to use them.

## **6.2. SUBSCRIBER Duties**

SUBSCRIBER retain all right, title, and interest in and to the Customer Data. SUBSCRIBER grants to VENDOR all necessary licenses and rights in and to such Customer Data solely as necessary for VENDOR to provide the Services to SUBSCRIBER or as required by law. SUBSCRIBER will be solely responsible for providing all Customer Data required for the proper operation of the Services. VENDOR will not knowingly use or access any Customer Data unless authorized to do so by SUBSCRIBER and, in such circumstances, VENDOR will access and use such Customer Data only as required to perform services on behalf of SUBSCRIBER. SUBSCRIBER hereby authorize VENDOR to use SUBSCRIBER'S name in a list of customers on the VENDOR website.

## **7. CHARGES AND PAYMENT OF FEES**

SUBSCRIBER shall pay all fees or charges to SUBSCRIBER'S account in advance within thirty (30) days of SUBSCRIBER'S receipt of an invoice from VENDOR. The initial fees will be described on the Quote/Invoice. If SUBSCRIBER adds Additional Users to the Agreement (or allows use of the Service by more than the paid-for number of users), VENDOR may invoice SUBSCRIBER for the additional applicable fees, and payment is due within thirty (30) days of SUBSCRIBER'S receipt of the invoice. All payment obligations are non-cancelable, and all amounts paid are nonrefundable, except as expressly set forth to the contrary in this Agreement. SUBSCRIBER is responsible for paying for all User licenses ordered for the entire License Term, whether or not such User licenses are actively used. SUBSCRIBER must provide VENDOR with valid credit card or approved purchase order information as a condition to signing up for the Services. VENDOR may modify the prices by providing at least thirty (30) days prior notice before the next renewal term of the Agreement.

## **8. BILLING AND RENEWAL**

### **8.1. Billing**

If VENDOR is authorized to do so, VENDOR will automatically bill SUBSCRIBER'S credit card for any extension terms, or, if VENDOR is not authorized to bill SUBSCRIBER'S credit card, VENDOR will issue an invoice to SUBSCRIBER each term period on the subsequent anniversary of the Effective Date and any quarterly SUBSCRIBER determined user increases. If VENDOR issues an invoice, all amounts described in the invoice are due within thirty (30) days of SUBSCRIBER'S receipt of the invoice. The renewal charge for Services will be equal to the then-current number of total User licenses times the then-current fees. Other services will be charged on an as-quoted basis. VENDOR's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and SUBSCRIBER shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on VENDOR's income. All amounts are quoted in U.S. Dollars and SUBSCRIBER must pay all amounts owed in U.S. Dollars.

### **8.2. Billing Information**

SUBSCRIBER must provide VENDOR with complete and accurate billing and contact information. This information includes SUBSCRIBER'S legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact and License Administrator. SUBSCRIBER will update this information within thirty (30) days of any change to it. If the contact information SUBSCRIBER has provided is false or fraudulent, VENDOR reserves the right to suspend or terminate SUBSCRIBER'S access to the Services in addition to any other legal remedies.

### **8.3. Billing Dispute**

If SUBSCRIBER believe SUBSCRIBER'S bill is incorrect, SUBSCRIBER must contact VENDOR in writing within fifteen (15) days of the date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

## **9. NON-PAYMENT AND SUSPENSION**

In addition to any other rights granted to VENDOR herein, VENDOR reserves the right to suspend or terminate this Agreement and SUBSCRIBER'S access to the Services if SUBSCRIBER fails to pay any undisputed amount owed within thirty (30) days of its due date. Overdue amounts are subject to interest of 3.0% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection. If SUBSCRIBER or VENDOR initiates termination of this Agreement, SUBSCRIBER will be obligated to pay the balance due on SUBSCRIBER'S account computed in accordance with the Charges and



Payment of Fees section above. SUBSCRIBER agree that VENDOR may charge such unpaid fees to SUBSCRIBER'S credit card or otherwise bill SUBSCRIBER for such unpaid fees. VENDOR reserves the right to impose a reconnection fee in the event SUBSCRIBER are suspended and thereafter request access to the Services.

## **10. TERM**

This Agreement commences on the Effective Date and will continue for an initial term of one (1) year ("Initial Term") unless terminated earlier as allowed herein. Upon the expiration of the Initial Term, this Agreement will automatically extend for successive renewal terms of one (1) year at VENDOR's then current fees, provided that either party may terminate this Agreement or reduce the number of seats, effective only upon the expiration of the Initial Term or the then-current extension period, by notifying the other party in writing at least thirty (30) business days prior to the expiration of the Initial Term or then-current extension term, as applicable.

## **11. SUSPENSION; TERMINATION FOR CAUSE**

If SUBSCRIBER is in breach of this Agreement, VENDOR may suspend SUBSCRIBER'S access to and use of the Services until SUBSCRIBER has cured the breach. Additionally, either party may terminate this Agreement upon written notice if the other party materially breaches the Agreement and does not cure such breach (if curable) within thirty (30) days after written notice of such breach. Upon the termination of this Agreement for any reason: (a) any amounts owed to VENDOR by SUBSCRIBER under this Agreement before such termination will become immediately due and payable; (b) each party will return to the other all property of the other party in its possession or control, and (c) VENDOR will remove all Customer Data from the System and all SUBSCRIBER'S access to or use of the System and Services will be immediately suspended. The rights and duties of the parties under **Sections 2.3, 4, 7, 8, 9, 11, 13, 14, 15, 17, 20 and 21** will survive the termination or expiration of this Agreement.

## **12. REPRESENTATIONS & WARRANTIES**

### **12.1. Mutual Warranty**

Each party represents and warrants that it has the legal power and authority to enter into this Agreement.

### **12.2. Customer Data Warranty**

SUBSCRIBER represents and warrants that SUBSCRIBER owns or has obtained all rights, consents, permissions, or licenses necessary to allow VENDOR access to, possession of, manipulation of, and use of the Customer Data.

## **13. DISCLAIMER OF WARRANTIES**

**EXCEPT AS EXPRESSLY SET FORTH IN SECTION 13, VENDOR AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICES OR ANY CONTENT. VENDOR AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICES WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SERVICES WILL MEET SUBSCRIBER'S REQUIREMENTS OR EXPECTATIONS, (C) ANY DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY SUBSCRIBER THROUGH THE SERVICES WILL MEET SUBSCRIBER'S REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS WILL BE CORRECTED, OR (F) THE SERVICES OR THE SERVER(S) THAT MAKE THE SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE SERVICES AND ALL CONTENT IS PROVIDED TO SUBSCRIBER STRICTLY ON AN "AS IS, AS-AVAILABLE" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY VENDOR AND ITS LICENSORS.**

## **14. MUTUAL INDEMNIFICATION**

### **14.1. SUBSCRIBER'S Indemnity**

SUBSCRIBER shall indemnify and hold VENDOR, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim arising from or related to VENDOR's access to, possession of, manipulation of, and use of the Customer Data as is necessary to provide



Services; (ii) a claim, which if true, would constitute a violation by SUBSCRIBER of SUBSCRIBER'S representations and warranties, (iii) a claim arising from VENDOR's access to SUBSCRIBER'S Smart Response Technologies.net account, (iv) a claim arising directly or indirectly from a Third Party Hardware product utilized in connection with VENDOR's services. VENDOR will (a) give written notice of the claim promptly to SUBSCRIBER; (b) give SUBSCRIBER sole control of the defense and settlement of the claim (provided that SUBSCRIBER may not settle or defend any claim unless SUBSCRIBER unconditionally release VENDOR of all liability and such settlement does not affect VENDOR's business or Service); and (c) provide to SUBSCRIBER all available information and assistance.

#### **14.2. VENDOR's Indemnity**

If any action is instituted by a third party against SUBSCRIBER based upon a claim that the Services or VENDOR System, as delivered, infringes a United States patent, copyright or trademark, VENDOR will defend such action at its own expense on behalf of SUBSCRIBER and will pay all damages attributable to such claim which are finally awarded against SUBSCRIBER or paid in settlement of such claim. VENDOR may, at its option and expense, and as SUBSCRIBER'S exclusive remedy hereunder: (a) procure for SUBSCRIBER the right to continue using the Services; (b) replace or modify the VENDOR System or Services so that it is no longer infringing but continues to provide comparable functionality; or (c) terminate this Agreement and SUBSCRIBER'S access to the Services and refund any amounts previously paid for the Services attributable to the remainder of the then-current term of this Agreement. VENDOR will have no liability to SUBSCRIBER for any infringement action that arises out of a breach of the terms and conditions of this Agreement by SUBSCRIBER or of the use of the Services or VENDOR System (i) after it has been modified by SUBSCRIBER or a third party without VENDOR's prior written consent, or (ii) in combination with any other service, equipment, software or process not provided by VENDOR where the combination is the basis for the infringing activity. This Section sets forth the entire obligation of VENDOR and SUBSCRIBER'S exclusive remedy against VENDOR or any of its suppliers for any infringement claim.

#### **15. INTERNET DELAYS**

SUBSCRIBER ARE SOLELY RESPONSIBLE FOR PROVIDING INTERNET ACCESS IN ORDER TO ACCESS AND USE THE SERVICES. VENDOR'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND **ELECTRONIC** COMMUNICATIONS. VENDOR IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

#### **16. LIMITATION OF LIABILITY**

EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY EXCEED THE AMOUNTS PAID OR PAYABLE FROM SUBSCRIBER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICES, OR THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICES, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### **17. ADDITIONAL RIGHTS**

Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential, or certain other types of damages, so the exclusions set forth above may not apply to SUBSCRIBER.

#### **18. ASSIGNMENT; CHANGE IN CONTROL**

This Agreement may not be assigned by SUBSCRIBER without the prior written approval of VENDOR, (such approval not to be unreasonably withheld) but may be assigned without SUBSCRIBER'S consent by VENDOR to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of SUBSCRIBER that results or would result in a direct competitor of VENDOR directly or indirectly owning or controlling 50% or more of SUBSCRIBER shall entitle VENDOR to terminate this Agreement for cause immediately upon written notice.

#### **19. GENERAL**





This Agreement shall be governed by Ohio law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction which would apply the laws of another jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Services shall be subject to the exclusive jurisdiction of the state and federal courts located in Warren County, Ohio USA. No text or information set forth on any other purchase order, preprinted form or document (other than a Quote/Invoice, if applicable) shall modify the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between SUBSCRIBER and VENDOR as a result of this agreement or use of the Services. The failure of VENDOR to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by VENDOR in writing. This Agreement, together with the VENDOR's Privacy Policy and any applicable Quote/Invoice, comprises the entire agreement between SUBSCRIBER and VENDOR and supersedes all prior or contemporaneous negotiations, discussions, or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

## 20. DEFINITIONS

As used in this Agreement and in any Quote/Invoices now or hereafter associated herewith:

"VENDOR Systems" means the software, network equipment, and other technology used by VENDOR to deliver the Service.

"VENDOR Technology" means the VENDOR System, and any other of VENDOR's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to SUBSCRIBER by VENDOR in providing the Service.

"Content" means the visual information, documents, software, products, and services contained or made available to SUBSCRIBER in the course of using the Services.

"Customer Data" means any data, information, content, or material, (to include but not limited to code and/or software), provided, made available, or submitted by SUBSCRIBER to the Services in the course of using the Service.

"Documentation" means VENDOR's Customization Guide and Technotes that are generally made available on-line by VENDOR to all customers.

"Training Provider" means SUBSCRIBER's designated employee to serve as a primary contact with respect to this Agreement and who will have the authority to act as the SUBSCRIBER'S Training Provider in connection with matters pertaining to this Agreement (the " **Training Provider**"); and the Training Provider shall be suitably skilled, experienced, and qualified to perform the Training Services once trained by the VENDOR. The Training Provider is responsible for Training additional SUBSCRIBER users prior to authorizing them access to the VENDOR's Services.

"Third Party Hardware" means hardware purchased by VENDOR or SUBSCRIBER to meet SUBSCRIBER'S specific hardware requirements to properly access and use the VENDOR's online software.

"Intellectual Property Rights" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world;

"License Administrator(s)" means those Users designated by SUBSCRIBER who are authorized to purchase licenses online using the Online Order Center or by executing written Quote/Invoices and to create User accounts and otherwise administer SUBSCRIBER'S use of the Service.

"License Term(s)" means the period(s) during which a specified number of Users are licensed to use the Services pursuant to the Quote/Invoice(s).

"Smart Response Technologies.net Service" means the service provided by Smart Response Technologies.net to which SUBSCRIBER must be a subscriber in order to obtain Services.

"User(s)" means SUBSCRIBER'S employees, representatives, consultants, contractors, or agents who are authorized to use the Services and have been supplied user identifications and passwords by SUBSCRIBER (or by Smart Response Technologies.net at SUBSCRIBER'S request).



**Sacramento Regional Fire/EMS Communications Center**  
10230 Systems Parkway, Sacramento, CA 95827-3007  
www.srfecc.ca.gov

**STAFF REPORT (23-27)**

DATE: September 20, 2023  
TO: Board of Directors  
FROM: Josh Freeman, Chief Executive Director  
SUBJECT: **CENTER PARKING LOT FENCING PROJECT**

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**RECOMMENDATION**

The Board of Directors:

1. Approve the expenditure not exceeding \$80,000 for the purchase and installation of an 8' steel fence encompassing the Center parking lot.
2. Allow the CED to enter into a MOU with IBEW Local 340 for the installation of the fence on their property and address cost-sharing for the project.
3. Allow the CED to enter into contract with Linmoore Fencing and Iron Works Inc.

**BACKGROUND/ANALYSIS**

With continued efforts to address the safety concerns of Center personnel, the security of the Center's parking lot has been identified as a high priority to address. Center staff solicited quotes from multiple fencing contractors (listed below) and have determined that the quote submitted by Linmoore Fencing and Iron Works Inc. best meets the needs of the Center.

- Crusader Fence Company - \$141,503.00
- Golden Bay Fence plus Iron Works, Inc. - \$118,845.00
- Linmoore Fencing & Iron Works - \$74,280.00
- All Steel Fence - No quote submitted
- Palisade Fencing - No quote submitted

This project directly supports the 2030 Strategic Blueprint and Growth Strategy Focus Area 4.C. by investing in the Center's long-term facility needs.

**FINANCIAL ANALYSIS**

This project is not currently in the FY 23/24 budget. Staff will utilize the identified budget remainder from the FY 22/23 budget to fund this project.

DocuSigned by:  
  
05B602DAE5EF4D2...  
JOSH FREEMAN  
CHIEF EXECUTIVE DIRECTOR

Attachments: Linmoore Quote



**LINMOORE FENCING and Iron Works Inc.**  
 7512 Watson Way  
 Citrus Heights, Ca 95610  
 (916)725-4321 Phone / (916)728-4321 Fax  
[info@linmoorefencing.com](mailto:info@linmoorefencing.com)  
[www.linmoorefencingsacramento.com](http://www.linmoorefencingsacramento.com)

Lic. #711703

Date: 9/8/2023

Contract: Sacramento Regional Fire /EMS Communications Center  
 Phone: Melissa Bernett – Cell: 916-809-5657 or Office: 916-228-3070  
 Address: 10230 Systems Pkwy, Sacramento

Description of the Project and Significant Materials: CONSTRUCTION CONTRACT

**Option 1:**

Install approximately 176' of 8' tall Guardian iron fencing - (curved at top) Commercial Heavy Duty - See attached specifications. Pre-Galvanized.

3" Posts set through asphalt and set in concrete footings.

**Includes**

2- Fabricate and install 2 custom panic gates – See attached specifications.

1- Fabricate and install an approximate 20' double swing on 6" (1/4" wall) posts – See attached specifications. Furnish and install a COMMERCIAL double swing gate operator.

1 - Fabricate and install custom approximate 20' wide single slide gate.

Full 52' concrete track complete with V-Track

3 – concrete automation pads

Furnish and install a COMMERCIAL slide gate operator.

All electrical will need to be ran to operators by 3<sup>rd</sup> party. Linmoore will run all accessories from the operators.

2 - Photo eyes for safety

2 - Key pads with stand

2 - Knox switches for Fire Department Emergency Access

2 - Click to enter for emergency access included.

2 – Loop packages (3 loops each)

2 – Automation cages - Operators will need to be install outside of the double gates. Cages will deter tampering and theft.

.....\$79,180.00 Initial to approve: \_\_\_\_\_

**Option 2:**

Same as above but double gate is now a single swing gate.

.....\$74,280.00 Initial to approve: \_\_\_\_\_

**Note:**

There is a possibility your electrician could run their conduit on our fence to avoid some trenching. We would be happy to work with them to create a plan.

**NOT BID AT PREVAILING WAGE**

DUE TO FREQUENT HIGH PRICE INCREASES ON MATERILAS, ALL CONTRACT PRICING IS ONLY GOOD FOR 10 DAYS.

CONTRACT MUST BE SIGNED WITHIN THE 10 DAY PERIOD SO WE CAN ORDER MATERIAL AND HONOR OUR PROPOSAL PRICE

Exclusions: (1) Building permits obtained by property owner. (2) Contractor is not responsible for locating property lines, unmarked underground utilities, foundations, or other structures.

Contractor will furnish all labor, materials, equipment, supervision and contract administration complete in accordance with above specifications.

Contract Price: General Contractor shall pay Linmoore Fencing & Iron Works, Inc. the fixed sum of  
**\$ PRICE BASED ON SELECTION MADE ABOVE..... \$ TBD**

For the work performed under this contract, subject to additions and deductions pursuant to change orders agreed upon by both parties. Payment Terms: PAID IN FULL UPON COMPLETION

Start and completion date of project are subject to size and scope of work to be performed and may vary.

Acceptance of Proposal- The above prices, specifications and conditions are satisfactory and hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

I AGREE TO ALL TERMS ON THIS PAGE AS WELL AS THE SECOND AND THIRD PAGE OF THE CONTRACT ATTACHED

\_\_\_\_\_  
 Date \_\_\_\_\_  
 Jay Linstroth, Linmoore Fencing & Iron Works, Inc.

\_\_\_\_\_  
 Date \_\_\_\_\_  
 Home Owner / General Contractor / Authorized Representative





7512 Watson Way

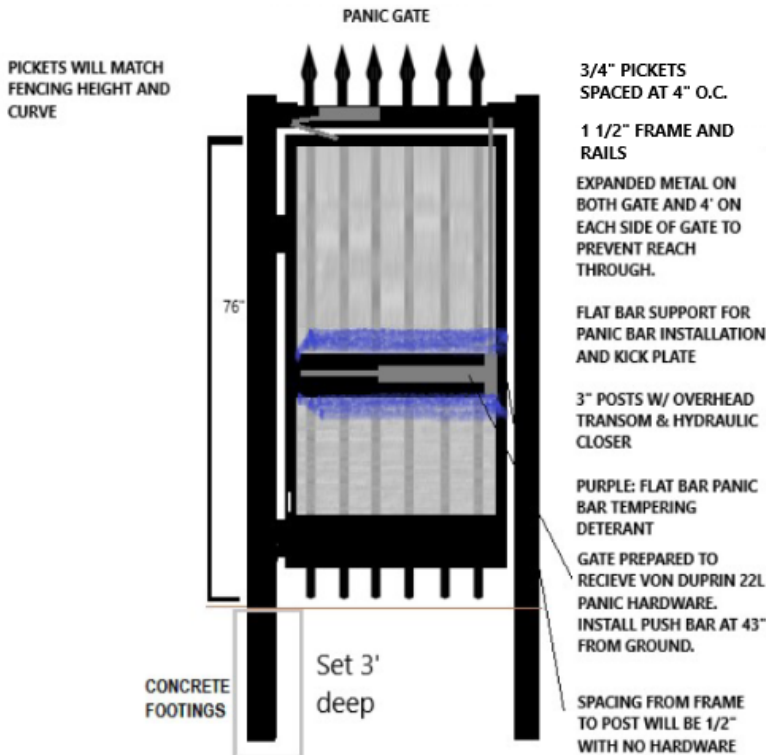
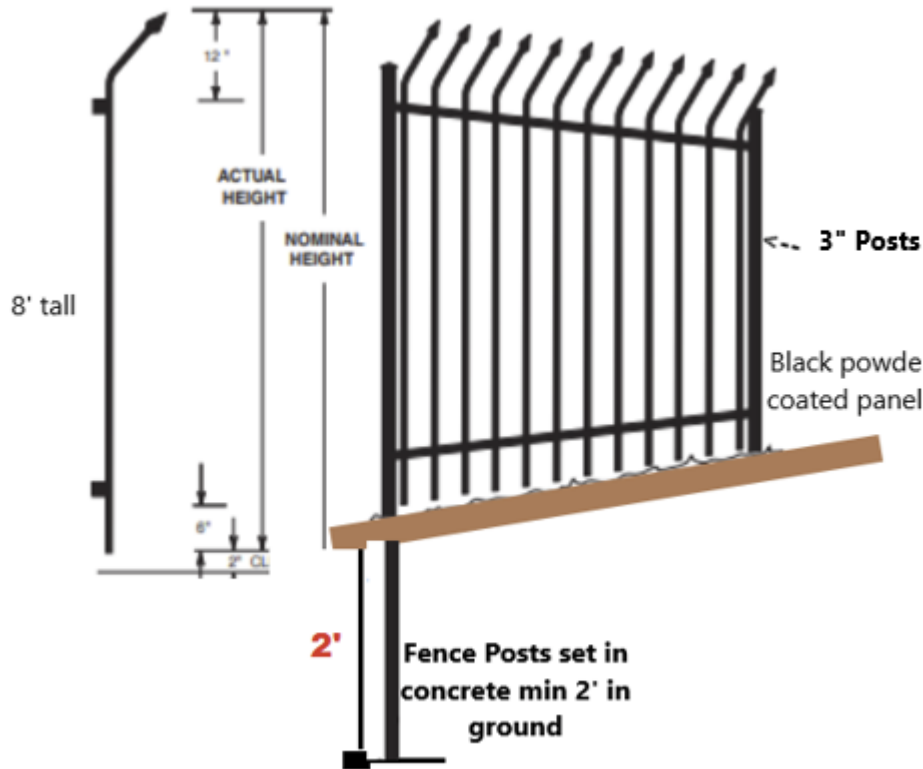
Citrus Heights, Ca 95610

(916)725-4321 Phone / (916)728-4321 Fax

[info@linmoorefencing.com](mailto:info@linmoorefencing.com)

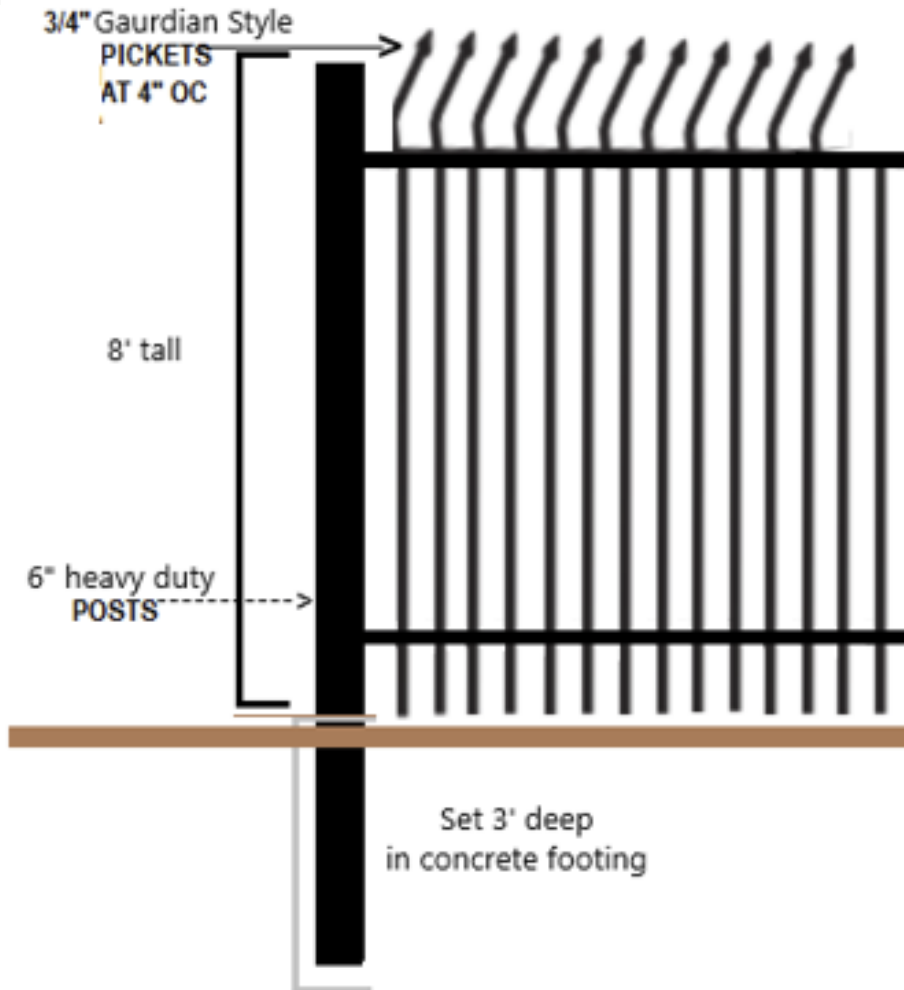
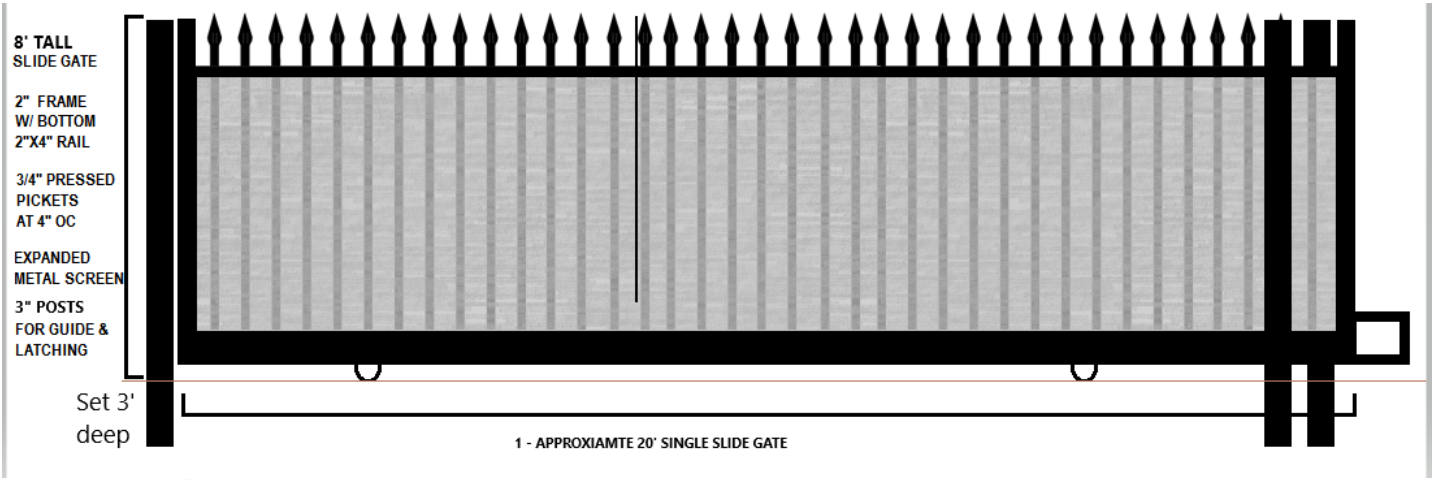
[www.linmoorefencingsacramento.com](http://www.linmoorefencingsacramento.com)

**CONTRACT PAGE 2 OF 5 - SLIDE GATE DESIGN AND DOUBLE SWING GATE DESIGN**





**CONTRACT PAGE 3 OF 5 - SLIDE GATE DESIGN AND DOUBLE SWING GATE DESIGN**





**LINMOORE FENCING and Iron Works Inc.**

Lic. #711703

7512 Watson Way  
Citrus Heights, Ca 95610  
(916)725-4321 Phone / (916)728-4321 Fax  
[info@linmoorefencing.com](mailto:info@linmoorefencing.com)  
[www.linmoorefencingsacramento.com](http://www.linmoorefencingsacramento.com)

**CONTRACT PAGE 4 OF 5 - NOTICES AND DISCLOSURES / CONTRACTORS STATE LICENSE BOARD**

You are entitled to a completely filled in copy of this contract, signed by both you and Linmoore Fencing & Iron Works, Inc., before any work may be started.

Extra work and change orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of any work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments. The extra work or change order is not enforceable against you unless the change order identifies the scope of work encompassed by the order, the amount to be added or subtracted and the effect the order will make in the progress payments or completion date. Linmoore Fencing & Iron Works, Inc.'s failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment. **Linmoore Fencing & Iron Works, Inc. is not required to perform additional work of changes without written approval in a change order before any of the new work is started.**

Linmoore Fencing & Iron Works, Inc. carries commercial general liability insurance written by Foothill Valley Insurance. You may call Foothill Valley Insurance at (916) 773-4560 to check coverage. Linmoore Fencing & Iron Works, Inc. carries workers' compensation insurance for all employees.

Anyone who helps improve your property, but who is not paid, may record a mechanics' lien on your property. A mechanics' lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder. For information about preventing liens, visit CSLB's website at [www.cslb.ca.gov](http://www.cslb.ca.gov) or call CSLB at 1-800-321-2752.

CSLB is the state consumer protection agency that licenses and regulates construction contractors. Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions and civil judgments that are reported to CSLB. **Use only licensed contractors.** If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees. For more information please visit [www.cslb.ca.gov](http://www.cslb.ca.gov), call 1-800-321-2752 or write to P.O. Box 26000, Sacramento, CA 95826.

**Notice of Three Day Right to Cancel:** The law requires that Linmoore Fencing & Iron Works, Inc. provides a notice explaining your right to cancel. You have the right to cancel this contract within three business days of signing. You may cancel by e-mailing, mailing, faxing, or delivering a written notice. Linmoore Fencing & Iron Works, Inc. must receive all notices by midnight of the third business day. Please include your name, your address, and the contract cancellation date. **Upon cancellation, a 10% balance of the previously contracted amount will remain due for administrative fees and material restocking fees.** Linmoore Fencing & Iron Works, Inc. must return any payments exceeding the 10% fee within 10 business days of receiving the cancellation notice. As property owner or general contractor, you must make any materials or products provided available to Linmoore Fencing & Iron Works, Inc. Any goods delivered to you under this contract must be at the contracted residence, in equally good condition as you received it. Alternatively, if you wish to comply with Linmoore Fencing & Iron Works, Inc.'s instructions on how to return the goods, you may do so at your own expense and risk. If you make the goods available to Linmoore Fencing & Iron Works, Inc. and we do not pick them up within 20 days of the date of your notice, you may keep them without any further obligation. If you fail to make the goods available, or if you agree to return the goods and fail to do so, then you remain liable for performance of all obligations under the contract.

\_\_\_\_\_  
Date  
Jay Linstroth, Linmoore Fencing & Iron Works, Inc.

\_\_\_\_\_  
Date  
Home Owner / General Contractor / Authorized Representative

I have received and understand the Notice of the Three-Day Right to Cancel.



**LINMOORE FENCING and Iron Works Inc.**

Lic. #711703

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Citrus Heights, Ca 95610  
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**CONTRACT PAGE 5 OF 5 - NOTICES AND DISCLOSURES / LINMOORE FENCING & IRON WORKS, INC.**

**All property lines must be properly marked by owner. Linmoore Fencing and Iron Works, Inc. is not responsible for property lines. An additional fee will result as "loss of labor wage" if delay of work is caused by unclear/unmarked property lines, incomplete grading/trenching, and any other unforeseen delays.** Total footage measurements include gate openings (jobs are measured through gates). Exact fence/gate placement to be determined by homeowner or general contractor on first day of installation with installer. Linmoore Fencing and Iron Works, Inc. is not responsible for incorrect fence placement or code violations due to property lines, landscaping, pool placement, etc. Ground must be graded properly and prepared for work to include, but not limited to, level ground, open trenches, knowledge and marking of: location of sprinklers, pool piping, underground electrical, gas and phone lines. It is the owner's responsibility to locate and mark such items to avoid damage during planned work. Linmoore Fencing and Iron Works, Inc. is not responsible for underground utilities. All underground utilities can be marked by USA, please call 1-800-227-2600 to request marking as needed. **If underground sprinkler piping is damaged due to post setting or fencing work, sprinklers can be repaired for a material charge and labor fee of \$105 an hour as applicable. Any schedule delays must be presented to Linmoore Fencing & Iron Works, Inc. at least 24 hours in advance.** A no show, or cancellation fee of \$150.00 may be applied if 24 hour notice is not given.

**Jack hammering, core drilling, or asphalt/concrete cutting may be an additional cost unforeseen in original scope of work. If jack hammering, core drilling or cutting of asphalt/concrete is required to set posts, an hourly fee of \$105 per hour will apply.** Typical post setting spacing is approximately every 8 to 10 ft, if additional posts are required to tie in to existing fencing or due to excessive starts and stops for obstructions in fence line, an additional fee will be applicable. Trees and shrubs should be trimmed/removed from work areas; if fencing lines cannot be accessed due to excess foliage owner may be billed at \$105 per hour for trimming/removal.

Concrete and/ or custom concrete applications such as coloring and/ or stamping should be cured for at least 24 hours prior to fencing/railing installations in these areas. Custom decking sealants should be disclosed to Linmoore Fencing and Iron Works, Inc. for proper installation and integrity of fencing/ railing installation.

**Linmoore Fencing and Iron Works, Inc. is not responsible for running electrical to gate operators.** Linmoore Fencing and Iron Works, Inc. can run low voltage wiring from electrical source to operator within 100'.

**Linmoore Fencing and Iron Works, Inc. is not responsible/ liable for improper backing and/ or no backing behind walls, columns, etc.** If improper backing or no backing exists an additional fee may be applied for custom fabrication of plates, etc. to ensure stable installation. In the instance of improper/ no backing one year warranty does not apply. Uneven surfaces for connection of fencing/railing such as stucco, stone, etc. may cause an additional fee for custom fabrication to ensure proper installation and building code requirements to satisfy proper picket spacing, etc.

Rust may occur on powder coated metal work, and /or weld joints. Any onsite welds will be touched up with touch up paint. Every effort will be made to match powder coating to touch up paint as best possible. In certain cases, an exact match is not guaranteed. Touch up paint may fade near weld joints. Touch up maintenance may be necessary and is the responsibility of the homeowner after the installation has been completed. **Linmoore Fencing and Iron Works, Inc. is not responsible for touch up maintenance after 1 year warranty period.** Feel free to ask any of our representatives for maintenance tips. Some custom powder coat colors may require a faux finish touch up, which is the responsibility of the homeowner. Linmoore Fencing and Iron Works, Inc. can refer clients to a licensed faux finish artist but is not responsible for any fees associated with said artist.

Linmoore Fencing and Iron Works, Inc. is not responsible for pulling permits pertaining to the owner's property. Linmoore Fencing and Iron Works, Inc. will perform work as laid out by property owner. **Permits and disclosure of all rules by Homeowner's Association, Private RCC, residential and commercial building codes etc. pertaining to this proposal is the owner's responsibility;** said rules (if any) must be submitted to Linmoore Fencing and Iron Works, Inc. Submittal of plan specifications to fire marshal, if necessary, is the sole responsibility of the Owner. Owner is responsible for any and all costs that may result because these said rules are not submitted to Linmoore Fencing and Iron Works, Inc.

**Negotiations with Installers are unacceptable. Only give payment to Installation staff for completed work if instructed to do so by one the Office staff.** Generally, an invoice will be generated and mailing of payment is preferred. Linmoore Fencing and Iron Works, Inc. accepts cash, check, or money order for payment methods. **Credit card processing is not available at this time.**

**Conflicts with scheduling may arise due to circumstances beyond our control,** Linmoore Fencing and Iron Works, Inc. will do everything possible to accommodate for any situation to insure timely installation. Linmoore Fencing and Iron Works, Inc. recommends that inspections, if necessary, are not scheduled until all work is completed.

Pets must be in an enclosed area and are to remain away from jobsite and installers during work. Linmoore Fencing and Iron Works, Inc. is not responsible for owner's pets.

\_\_\_\_\_  
Date  
Jay Linstroth, Linmoore Fencing & Iron Works, Inc.

\_\_\_\_\_  
Date  
Home Owner / General Contractor / Authorized Representative