

AGREEMENT

SEQUENT CONTRACTOR - CSDC sub-contractor

1.1 AGREEMENT

THIS AGREEMENT is entered this April 20, 1994, by and between SNOHOMISH COUNTY (COUNTY), a charter County of the State of Washington and SEQUENT COMPUTER SYSTEMS, INC., headquartered in Beaverton, Oregon, herein after called the "CONTRACTOR" or "PRIME CONTRACTOR":

2.1 RECITALS

2.1.1 Sequent Computer Systems Incorporated is a provider of computerized automation systems. Sequent Computer Systems Incorporated has submitted a Proposal to the County for a Community Development Permit Tracking System comprised of hardware and software to be installed, implemented, and supported at the County's location.

2.1.2 County desires to have Sequent install and support the System at County's business location.

2.1.3 This Agreement is awarded by County pursuant to the success of Sequent Computer Systems Incorporated in its response to the Snohomish County Request for Proposal (RFP) 06-93, dated July 20, 1993.

2.2 (Deleted and left blank.)

2.3 TERM OF AGREEMENT

This agreement and the rights granted herein shall remain in effect until terminated in accordance with Sections 2.14.11 and 2.14.12, or by the mutual consent of the parties which shall be in writing.

2.4 (Deleted and left blank.)

2.5 DEFINITIONS

2.5.1 Definition of System: The subject matter of this Agreement is an integrated permit tracking system ("the System") to be provided by Sequent Computer Systems Incorporated. The System is comprised of the hardware, software, accompanying documentation, and services set forth in Exhibits A through F.

2.5.2 Definition of Hardware: "Hardware" means the physical equipment identified in Exhibit B, and any substitute or additional equipment (consistent with meeting the County's need as set out in RFP 06-93) which may be acquired by County from Sequent Computer Systems Incorporated.

- 2.5.3 Definition of Standard Software: "Standard Software" means executable applications or system software products which are purchased in an "off-the-shelf" manner without modification to the source code of the application. "Standard software" shall include products such as Sequent's DYNIX/ptx operating systems, and any substitute or additional applications or operating systems (consistent with meeting the County's need as set out in RFP 06-93) which may be acquired by County from Sequent Computer Systems Incorporated. Standard software may require extensive modification and configuration at levels other than the source code level prior to its use in business applications.
- 2.5.4 Definition of Custom Software: "Custom software" means application products which are modified in a material way at the source code level prior to their normal use by the County. "Custom software" shall include products such as Integrated Building Control System from CSDC, Inc.
- 2.5.5 Definition of Services: "Services" means the labor performed by Sequent Computer Systems Incorporated or its sub-contractors identified in Section 2.6, and any substitute or additional services (consistent with meeting the County's need as set out in RFP 06-93) which may be acquired by County from Sequent Computer Systems Incorporated.

2.6 CONTRACTOR'S SERVICES

In consideration of the sum of \$320,758.00 as stated in Exhibit A, the CONTRACTOR agrees to provide to the COUNTY all services, Hardware, software, and any materials set forth in Exhibits A through F of this Agreement during the period of the Agreement for a Permit Tracking System described in RFP 06-93, in accordance with this Agreement.

The CONTRACTOR shall be the Prime Contractor under this Agreement with respect to all services, the CONTRACTOR hardware and software products and the CSDC permit tracking application software set forth in Exhibit A. It is understood that the CONTRACTOR will subcontract with CSDC to provide such permit tracking application software and all warranty and maintenance services. The CONTRACTOR shall remain solely responsible for all performance under this Agreement with respect to all services, CONTRACTOR's products and the CSDC software set forth in Exhibit A. The subcontractor's address is:

CSDC SYSTEMS INC.

CSDC Systems Inc.

3184 Ridgeway Drive

Mississauga, Ontario, Canada L5L 5S7 Phone: (416) 569-7841

2.7 (Deleted, and moved to section 2.14.23.)

2.8 (Deleted, and moved to section 2.14.23.)

2.11 USER DEFINITION FOR SOFTWARE LICENSE

For purposes of the software licenses provided in this agreement, "user" for each component of the system shall be defined as follows:

Sequent: An individual that is actively accessing the Sequent DYNIX/ptx operating system environment (requires an account on the system and a login to the system).

CSDC: Each concurrent access to the application software is considered as one user for the Permit Tracking application license.

2.12 PERMIT TRACKING SYSTEM

All hardware, training and services provided by CONTRACTOR and all software licensed by the CONTRACTOR hereunder and referenced in Exhibit A along with all the functionality represented within the CONTRACTOR's response to RFP 06-93 will herein be called and referred to as the "Permit Tracking System", or "System".

2.13 GRADUATED PAYMENTS, COOPERATIVE PURCHASING, AND PRODUCT DISCOUNT SCHEDULE

Contract payments will be made to the CONTRACTOR upon installation of the Permit Tracking System and successful completion of Performance Periods (defined in Sections 2.14.36 and 2.14.37) based on the modules that have been installed or that have successfully completed a Performance Period.

The COUNTY will base payments on installation and/or successful completion of the Performance Period for each activity as described in Exhibit G, Graduated Payment Schedule.

2.13.2 Cooperative Purchasing: The Washington State Interlocal Cooperative Act RCW 39.34 provides a means for governmental agencies to cooperatively purchase goods and services. The CONTRACTOR agrees that other Washington State municipalities and agencies may, at their option, procure CONTRACTOR products under terms equivalent to this Agreement and Product Discount Schedule defined in section 2.13.3.

2.13.3 Product Discount Schedule: CONTRACTOR agrees that the COUNTY may purchase additional CONTRACTOR products at the discounted prices set forth in Exhibit H.

payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

CONTRACTOR will defend, indemnify and hold harmless the COUNTY, its officers, agents or employees from any loss or expense, including but not limited to settlements, judgments, set-offs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

2.14.5 No Guarantee of Employment:

The performance of all or part of this contract by the CONTRACTOR shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the CONTRACTOR or any employee of the CONTRACTOR or any subcontractor or any employee of any subcontractor by the COUNTY at the present time or in the future.

2.14.6 Mutual Non-Solicitation:

The COUNTY agrees not to approach or solicit for employment in any way CONTRACTOR's employees while this contract is in force, or for ninety (90) days thereafter. The CONTRACTOR agrees not to hire, solicit, or accept solicitation for the services, through employment or other means, of any county employee with whom the CONTRACTOR has direct contact in the course of an assignment under this contract, or for a period of ninety (90) days thereafter.

2.14.7 Taxes:

The CONTRACTOR understands and acknowledges that the COUNTY will not withhold Federal or State income taxes. Where required by State or Federal law, the CONTRACTOR authorizes the COUNTY to make withholding for any taxes other than income taxes (i.e., medicare). All compensation received by the CONTRACTOR will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the CONTRACTOR to make the necessary estimated tax payments throughout the year, if any, and the CONTRACTOR is solely liable for any tax obligation arising from the CONTRACTOR's performance of this Agreement. The CONTRACTOR hereby agrees to indemnify the COUNTY against any demand to pay taxes arising from the CONTRACTOR's failure to pay taxes on compensation earned pursuant to this Agreement.

The COUNTY will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The CONTRACTOR must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the CONTRACTOR's gross or net income, or personal property to which the COUNTY does not hold title. The COUNTY is exempt from Federal Excise Tax.

- 2.14.8 Regulations and Requirement:
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. CONTRACTOR, its agents, employees or subcontractors shall conform in all respects with physical, fire or other published security regulations while on the COUNTY's premises.
- 2.14.9 Right to Review:
The CONTRACTOR agrees that an authorized representative of the COUNTY shall, until the expiration of three (3) years after contract termination and upon reasonable notice, have access to and the right to examine any pertinent books and records of the CONTRACTOR involving transaction(s) related to the performance of this contract.
- 2.14.10 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.
- 2.14.11 Termination for Default:
If the CONTRACTOR defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the COUNTY may, if the CONTRACTOR has not cured following a thirty (30) day notice, by depositing written notice to the CONTRACTOR in the U.S. mail, postage prepaid, terminate the contract, and at the COUNTY's option, obtain performance of the work elsewhere. If the contract is terminated for default, the CONTRACTOR shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any reasonable extra cost or damage to the COUNTY resulting from such default(s) shall be deducted from any money due or coming due to the CONTRACTOR. The CONTRACTOR shall bear any reasonable extra expenses incurred by the COUNTY in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the COUNTY by reason of such default.

If a notice of termination for default has been issued and it is later determined for any reason that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

2.14.12

Termination for Public Convenience:

The COUNTY may terminate the contract in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the interests of the COUNTY. Whenever the contract is terminated in accordance with this paragraph, the CONTRACTOR shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the COUNTY at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the COUNTY.

2.14.13

Defense & Indemnity Agreement:

The CONTRACTOR shall hold harmless from and indemnify Snohomish COUNTY, its elected and appointed officials, employees, and agents, against all claims, losses, suits, actions, costs, counsel fees, litigation costs, expenses, damages, judgements, or decrees by reason of damage to any property of any person or party and/or any death, injury or disability to or of any person or party, including any employee, arising out of or suffered, directly or indirectly, by reason of or in connection with the performance of this agreement or any act, error or omission of the CONTRACTOR, CONTRACTOR's employees, agents, or subcontractors, whether by negligence or otherwise. Provided, that if the claims for damages arise out of bodily injury to persons or damage to property and caused by or result from the concurrent negligence: (1) of the COUNTY and its elected or appointed officials, employees, or agents, and (2) the CONTRACTOR and its agents, employees, or subcontractors, the hold harmless and indemnity provisions of this agreement shall be valid and enforceable only to the extent of the negligence of the CONTRACTOR, its agents, employees, or subcontractors. The CONTRACTOR's obligation shall include, but not be limited to, investigating, adjusting, and defending all claims alleging loss from action, error, or omission or breach of any common law, statutory or other delegated duty by the CONTRACTOR, CONTRACTOR's employees, agents, or subcontractors.

2.14.14

Industrial Insurance Waiver:

CONTRACTOR shall obtain and maintain continuously, at its own expense, general occurrence form liability insurance with limits of liability not less than \$1,000,000.00 each occurrence. Carrier is subject to approval by COUNTY. Such insurance shall include "Snohomish County, its officers, elected officials, agents and employees" as an additional insured and shall not be reduced or cancelled without thirty (30) days written prior notice to the COUNTY. CONTRACTOR shall provide to COUNTY for review and approval, a duplicate of the policy as evidence of insurance protection provided, as a condition precedent to execution of this contract.

Such insurance, in its provision for additional insured, shall include a "Cross Liability Endorsement", "Severability of Interests", or "Separation of Insureds" provision indicating:

"The inclusion of more than one insured under this policy shall not affect the rights of any insured as respects any claim, suit, or judgment made or brought by or for any other insured or by or for any employee of any other insured. The policy shall protect each insured in the same manner as though a separate policy had been issued to each except that nothing herein shall operate to increase the company's liability beyond the amount or amounts for which the insurer would have been liable had only one insured been named."

With respect to the performance of this agreement and as to claims against the COUNTY, its officers, agents and employees, the CONTRACTOR expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the CONTRACTOR. This waiver is mutually negotiated by the parties to this agreement.

2.14.15 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation or any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the COUNTY of Snohomish. This Agreement shall be governed by the laws of the State of Washington.

2.14.16 Withholding Payment:

In the event the Contracting Officer determines that the CONTRACTOR has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the COUNTY may withhold from amounts otherwise due and payable to CONTRACTOR the amount determined by the COUNTY as necessary to cure the default, until the Contracting Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling CONTRACTOR to termination or damages, provided that the COUNTY promptly gives notice in writing to the CONTRACTOR of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Contracting Officer set forth in a notice to the CONTRACTOR of the action required and /or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the CONTRACTOR acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The COUNTY may act in accordance with any determination of the Contracting Officer which has

become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the CONTRACTOR, (3) to set off any amount so paid or incurred from amounts due or to become due the CONTRACTOR. In the event the CONTRACTOR obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to CONTRACTOR by reason of good faith withholding by the COUNTY under this clause.

2.14.17 Future Non-Allocation of Funds:

If sufficient funds are not appropriated or allocated for payment under this contract for any future fiscal period, the COUNTY will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. No penalty or expense shall accrue to the COUNTY in the event this provision applies.

2.14.18 CONTRACTOR Commitments, Warranties and Representations:

Any written commitment received from the CONTRACTOR concerning this Agreement shall be binding upon the CONTRACTOR if incorporated into this contract physically or by reference. Failure of the CONTRACTOR to fulfill such a commitment shall render the CONTRACTOR liable for damages to the COUNTY. A commitment includes, but is not limited to any representation made prior to execution of this Agreement as to performance of services or Products, prices or options for future acquisition to remain in effect for a fixed period, or warranties. Warranties for CONTRACTOR products are set forth in Exhibit D attached hereto and by this reference incorporated herein.

2.14.19 Patent/Copyright Infringement:

CONTRACTOR will defend and indemnify the COUNTY from any claimed action, cause or demand brought against the COUNTY, to the extent such action is based on the claim that products furnished hereunder by the Contractor infringes any U.S. or Canadian patent or copyright. The CONTRACTOR will pay those costs and damages attributable to any such claims that are finally awarded against the COUNTY in any action. Such defense and payments are conditioned upon the following:

- a. That CONTRACTOR shall be notified promptly in writing by COUNTY of any notice of such claim.
- b. CONTRACTOR shall have the right, hereunder, at its option and expense, to obtain for the COUNTY the right to continue using the products, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the COUNTY.
- c. The right to continue using the System, replace or modify the Products so that they become non infringing or, if such remedies are not

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SNOHOMISH COUNTY INFORMATION SERVICES

Department of Information Services, M/S 709

3000 Rockefeller Avenue

Everett, Washington 98201-4046

Phone: (206) 388-3349

SEQUENT COMPUTER SYSTEMS, INC. (CONTRACTOR)

1540 S.W. Koll Parkway

Beaverton, Oregon, 97006-6063

Phone: (503) 626-5700

2.14.24

Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

2.14.25

Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

2.14.26

Quiet Possession and Usage:

The COUNTY upon paying the amounts due hereunder and performing all other covenants, terms and conditions on its part to be performed hereunder, may and shall peacefully and quietly have, hold, possess, and enjoy the Hardware and Software for the term provided without suit, molestation or interruption.

2.14.27

(Deleted and left blank.)

2.14.28

Risk of Loss:

During the period the machines, model changes, or features are in transit or in possession of the COUNTY, up to and including the date of installation by the COUNTY, CONTRACTOR and its insurers, if any, relieve the COUNTY of responsibility for all risks of loss or damage to the machines. After the date of installation, the risk of any loss or damage shall be borne by the COUNTY except loss or damage attributable to CONTRACTOR's negligence, or breach of warranty or maintenance agreements.

2.14.29

(Deleted and left blank.)

2.14.30

(Deleted and left blank.)

2.14.31 Hardware Condition:

CONTRACTOR warrants that Hardware acquired subject to this agreement is newly manufactured and consists entirely of new components except that used or refurbished hardware for the supply of spare parts where such parts are warranted as new shall be satisfactory during the maintenance periods.

2.14.32 Software Documentation:

CONTRACTOR will provide appropriate software documentation, within 30 days after execution of this agreement or as otherwise mutually agreed, in the form of a mutually agreed number of manuals adequate for use of software ordered under the provisions of this agreement. Manual upgrades to be provided on a no-charge basis by the CONTRACTOR as long as a maintenance agreement is in effect for such software programs.

For all CONTRACTOR programs furnished to the COUNTY within the scope of this Agreement, and to the extent it is contractually allowed to do so, the CONTRACTOR agrees that in the event it withdraws its support (if supported) from such programs, it will immediately furnish to the COUNTY, if requested, at no additional cost, complete documentation to permit the COUNTY to maintain, modify or enhance such purchased or licensed programs.

CONTRACTOR grants to the COUNTY the right to copy or otherwise reasonably reproduce CSDC software manuals and documentation furnished pursuant to his provision, for the COUNTY's internal use only within the scope of this Agreement at no additional charge.

CONTRACTOR'S own copyrighted documentation and manuals may not be reproduced, however, CONTRACTOR will provide additional copies to the COUNTY, upon COUNTY's request, at mutually agreed upon prices.

2.14.33 Software Upgrades & Maintenance:

CONTRACTOR further agrees that CONTRACTOR will, at the sole option of the COUNTY, maintain the Permit Tracking System software to original performance specifications in accordance with the following maintenance terms and conditions for a period of five (5) years from date of acceptance of any software purchased or licensed pursuant to this agreement, provided that said software has been continuously maintained by the CONTRACTOR, or the CONTRACTOR's authorized Subcontractor, since its acceptance. Maintenance for purchased software may be discontinued by the Purchaser upon ninety (90) days written notice to CONTRACTOR.

Maintenance charges used in computing credits are as set forth in Exhibit A.

- a. The COUNTY shall provide the contractor access to the system to perform maintenance service. This access may be by modem at the discretion of the CONTRACTOR and the COUNTY.

- b. Maintenance and upgrades shall be performed at a time convenient to the COUNTY.
- c. Major new releases shall be provided on magnetic media compatible with COUNTY installation, with complete instructions for a Systems Administrator to apply the upgrade.
- d. The COUNTY will be notified in advance if any change made is non-reversible, so that appropriate back-ups of programs and/or data can be taken before applying the upgrade, in case the upgrade causes a problem in the system.
- e. Any new functionality for the CSDC application software required by statute of the State of Washington or the United States of America will be provided as follows:

If the required functionality is minor in nature, such functionality will be provided in the next release of the CSDC software at no additional charge to the COUNTY. A functionality shall be considered minor in nature if such functionality can be created in less than twenty-four (24) man hours.

If the required functionality is not minor in nature, it shall be considered an enhancement to the CSDC software. The CONTRACTOR and its subcontractors will advise the COUNTY on the cost of providing such enhancement and shall proceed with such enhancement upon written approval from the COUNTY.

2.14.34

CONTRACTOR Correction of Software Malfunction:

CONTRACTOR shall provide a correction service at no additional cost to the COUNTY for any error, malfunction, or defect, if any, in the CONTRACTOR supplied software which, when used as delivered, fails to perform in accordance with this agreement or with CONTRACTOR's officially announced technical specifications and which the COUNTY shall bring to CONTRACTOR's attention. CONTRACTOR agrees to perform remedial maintenance in accordance with the following maintenance terms and conditions for a period of five (5) years from date of acceptance of any software purchased or licensed pursuant to this agreement, provided that said software has been continuously maintained by the CONTRACTOR, or the CONTRACTOR's authorized Subcontractor, since its acceptance. CONTRACTOR shall undertake such correction service in a timely manner.

A. Remedial Software Maintenance: General Provisions:

- (1) The COUNTY shall provide the CONTRACTOR access to the system to perform remedial maintenance service. This access may be by modem at the discretion of the CONTRACTOR and the COUNTY.

- (2) The COUNTY agrees to make the system available at reasonable times and in reasonable time increments and in such event the COUNTY will not charge the CONTRACTOR for such system use.
- (3) Performance of remedial maintenance shall begin within the contracted period of remedial maintenance and after notification that the Permit Tracking System is not operating correctly. The CONTRACTOR shall provide the COUNTY with a designated point of contact and shall make arrangements to enable its maintenance representative to receive such notification. The COUNTY shall provide the CONTRACTOR with a designated representative, a description of the problem and an assessment of the severity of the problem.
- (4) Contracted response time is defined as 2 hours after notification by the COUNTY that remedial maintenance service is required, within which CONTRACTOR's maintenance personnel shall make a good faith effort to reach the COUNTY contact person and begin work to correct the problem.
- (5) Except for causes beyond the control of the CONTRACTOR, if the maintenance personnel fail to contact the COUNTY's designated representative within the contracted response period, the CONTRACTOR shall grant a credit to the COUNTY in the amount of 1/200th of the prorated monthly maintenance charges for the Permit Tracking System license for each "late" hour or part thereof (prorated) beginning with the time of notification and ending with the time of contact and, within each calendar month, not to exceed 100% of the prorated monthly maintenance charge. For purpose of response time computations only hours of contracted remedial maintenance shall be included.
- (6) The CONTRACTOR shall furnish a malfunction incident report to the installation upon completion of each remedial maintenance call. The report shall include, as a minimum, the following:
 - (a) Date and time notified;
 - (b) Date and time COUNTY contact called;
 - (c) Module affected;
 - (d) Time spent for repair;
 - (e) Description of malfunction;
 - (f) Description of problem fix or work-around.
- (7) Maintenance Credit for System Malfunction:
 - (a) If a major component of the Permit Tracking System remains inoperative due to a malfunction through no fault or negligence of the COUNTY for a total of 12 hours or

more during any 24-hour period, the CONTRACTOR shall grant a credit to the COUNTY for each such hour in the amount of 1/200th of the prorated monthly license and maintenance charges for the Permit Tracking System and, within each calendar month not to exceed 100% of the prorated monthly maintenance charge. System downtime is defined as that period of time when scheduled jobs cannot be processed on the system due to CONTRACTOR supplied software malfunction. Downtime for each incident shall start from the time the COUNTY makes a bona fide attempt to contact the CONTRACTOR's designated representative at the prearranged contact point and continue until the system is returned to good operating condition; PROVIDED THAT, time required, as a result of the malfunction, to reconstruct data stored on disks and/or other storage media, shall be considered down time for the system. Data reconstruction is defined as the process needed to return a database and its corresponding data to a state that is known to be correct, from a state that is known to be incorrect. The COUNTY wishes to have standard recovery processes available including forward recovery (restore of backup copy with application of all transactions from journal(s) to current) as well as backward recovery (undoing transactions from current using journal). The COUNTY expects the use of checkpoints (automatic database and journal reconciliation during operation periodically) to facilitate data restoral.

- (b) Exclusive of the provisions of Paragraph 7a above, the CONTRACTOR shall grant a credit to the COUNTY whenever the system being maintained by the CONTRACTOR fails to perform at an effectiveness level of 95 percent during any month. The effectiveness level for the Permit Tracking System is computed by dividing the operational use time by the sum of that time plus system downtime. Downtime shall be defined and computed in the same manner as provided in subparagraph 7a above. The credit shall be a reduction of the total prorated monthly license and maintenance charges by the percentage figure determined by subtracting the actual effectiveness level percentage from 95 percent and within each calendar month, not to exceed 100% of the prorated monthly maintenance charge. For example, if the effectiveness level for the system is 82 percent, the credit would be 13 percent.

Any downtime for which credit was granted in accordance with Paragraph 7a above shall not be included in the effectiveness level computation.

2.14.35 Installation and Delivery Dates:

Hardware supplied by the CONTRACTOR shall be installed for use on or before 90 days from CONTRACT date. The Hardware shall not be considered ready for use until the CONTRACTOR provides the COUNTY with documentation of a successful system audit utilizing CONTRACTOR's diagnostic routines, performed at the COUNTY's installation site, which demonstrates that the Hardware meets design capabilities and after reviewing such documentation the COUNTY agrees that the Hardware is ready to begin acceptance testing and so notifies CONTRACTOR in writing.

CONTRACTOR's Permit Tracking System software is to be installed after acceptance of all required hardware for that module and prior to installation of converted COUNTY data files. Installation to be completed on or before 150 days from CONTRACT date.

After hardware acceptance, COUNTY data files requiring conversion shall be converted to operate on the CONTRACTOR's software on or before 270 days from CONTRACT date. If required, the installed hardware can be used to complete any conversions that are to the advantage of both the COUNTY and CONTRACTOR in meeting installation time frames and ease of conversion.

The COUNTY shall provide the CONTRACTOR access to the Hardware installation site prior to the installation date for the purpose of Hardware installation.

2.14.36 Standard of Performance and Acceptance of Hardware:

The Performance Period shall begin when the Hardware is installed and ready for use and shall end when the Hardware has met the Standard of Performance for a period of 30 consecutive days by operating in conformance with the CONTRACTOR's technical specifications (or as quoted in any proposal) and at an effectiveness level of at least 95 percent. In the event the Hardware does not meet the Standard of Performance during the initial 30 consecutive days the Standard of Performance test shall continue on a day-to-day basis until the Standard of Performance is met for a total of 30 consecutive days.

If the Hardware fails to meet the Standard of Performance after 90 calendar days, from commencement of Acceptance Testing, the COUNTY may, at its option, either terminate the Hardware order without penalty, request replacement Hardware, or continue the performance test. The CONTRACTOR shall be liable for all inbound and outbound preparation and shipping costs for Hardware returned pursuant to this provision. The COUNTY's option to return the Hardware Order under this Agreement shall remain in effect until such time as a successful completion of the performance

period is attained.

The effectiveness level for a machine is a percentage figure determined by dividing the operational use time of the machine by the sum of that time plus machine failure downtime.

Operational use time for performance testing for a machine is defined as the accumulated time during which the machine is in actual use.

Machine downtime is that period of time when scheduled jobs cannot be processed on that machine due to machine or contractor supplied software malfunction.

During periods of machine downtime, the COUNTY may use operable Hardware when such action does not interfere with maintenance of the inoperable Hardware. Machine downtime for added, field modified, substitute, or replacement machines after the completion of a successful Performance Period is that period of time when such machines are inoperable due to machine or CONTRACTOR supplied software malfunction.

Machine downtime for each incident shall start from the time the COUNTY makes a bona fide attempt to contact the CONTRACTOR's designated representative at the prearranged contact point until the machine(s) is returned to the COUNTY in proper operating condition.

During the 30 consecutive day performance period for a machine a minimum of 100 hours of operational use time with productive or simulated work will be required as a basis for computation of the effectiveness level. However, in computing the effectiveness level the actual number of operational use hours shall be used when in excess of 100 hours.

The COUNTY shall maintain appropriate daily records to satisfy the requirements of this provision and shall notify the CONTRACTOR in writing of the date of the first day of the successful Performance Period.

Hardware shall not be accepted and no charges shall be paid until the Standard of Performance is met. The date of acceptance shall be the first day of the successful Performance Period.

Operational use time and machine downtime shall be measured in hours and whole minutes.

2.14.37

Standard of Performance and Acceptance of Software:

This provision establishes a standard of performance which must be met before any of the software is accepted by the COUNTY. It is also applicable to any modifications and upgrades which are added, or field modified after completion of a successful Performance Period.

To be considered ready for use, the CONTRACTOR shall demonstrate to the acceptance of the COUNTY, using a performance audit of the installed software and system data files, that the CONTRACTORs Permit Tracking System software performs to the standards as specified elsewhere in this contract. The COUNTY shall provide written notice of acceptance. Any required software modifications to meet the requirements of the COUNTY or State shall be subject to the same acceptance audit and shall not be accepted until such time as the modifications meet the requirements.

The Performance Period shall begin when the System has been successfully tested for a period of 45 consecutive days occurring after the installation of the system. The system shall perform as specified in the Contractor's proposal. A component of the system that adversely affects other previously accepted components of the system will not be accepted until the performance or other problem has been resolved to the satisfaction of the COUNTY. The COUNTY shall provide written notice of successful performance.

Future modifications, upgrades and new sub-systems will be subject to Performance Period testing as applicable to those individual systems. CONTRACTOR guarantees that any future enhancements will not impact the operating performance of previously approved software.

The COUNTY shall provide the CONTRACTOR access to the system for any on-site software installation as may be required. The CONTRACTOR shall provide a means to access the COUNTY Permit Tracking System via modem for such enhancements and for regular system and user support.

2.14.38

Maintenance of Hardware:

CONTRACTOR agrees that, for COUNTY Hardware listed in Exhibits A through D, CONTRACTOR will, at the sole option of the Purchaser, maintain the Hardware to original performance specifications and in accordance with the following maintenance terms and conditions for a period of five (5) years from date of acceptance of any Hardware purchased pursuant to this agreement, provided that said Hardware has been continuously maintained by the CONTRACTOR, or the CONTRACTOR's authorized Subcontractor, since its acceptance. Maintenance for purchased Hardware may be discontinued by the Purchaser upon ninety (90) days written notice to CONTRACTOR.

A. Maintenance: General Provisions:

- (1) The COUNTY shall provide the CONTRACTOR access to the Hardware to perform maintenance service.

- (2) Preventive maintenance shall be performed at a time convenient to the COUNTY within or contiguous with contracted periods of maintenance. The CONTRACTOR shall specify in writing, for each machine, the number of hours it requires per month for preventive maintenance and the frequency and duration of such preventive maintenance. From this CONTRACTOR supplied information the COUNTY shall develop and provide to the CONTRACTOR in writing the schedule within which the CONTRACTOR shall provide preventive maintenance. This schedule may be modified by mutual agreement.
- (3) Performance of remedial maintenance shall begin within the contracted period of remedial maintenance and after notification that Hardware is inoperative. The CONTRACTOR shall provide the COUNTY with a designated point of contact and shall make arrangements to enable its maintenance representative to receive such notification.
- (4) Contracted response time is defined as four (4) hours, within which CONTRACTOR's maintenance personnel must arrive at COUNTY's Hardware installation site after notification by the COUNTY that remedial maintenance service is required.
- (5) Except for causes beyond the control of the CONTRACTOR, if the maintenance personnel fail to arrive at the COUNTY's installation site within the contracted response period, the CONTRACTOR shall grant a credit to the COUNTY in the amount of 1/200th of the prorated monthly maintenance charges for that Hardware for each "late" hour or part thereof (prorated) beginning with the time of notification and ending with the time of arrival and within each calendar month, not to exceed 100% of the prorated monthly maintenance charge. For purpose of response time computations, only hours of contracted remedial maintenance shall be included; except that, if any portion of the Contracted Response Time falls outside contracted periods of remedial maintenance, the maintenance personnel shall arrive at the beginning of the following period of contracted remedial maintenance.
- (6) The CONTRACTOR shall furnish a malfunction incident report to the installation upon completion of each maintenance call. The report shall include, as a minimum, the following:
 - (a) Date and time notified;
 - (b) Date and time of arrival;
 - (c) Type and Serial Number(s) of machine(s);
 - (d) Time spent for repair;
 - (e) Description of malfunction;

- (f) List of parts replaced;
 - (g) Additional charges, if applicable.
- (7) There shall be no additional charges for replacement parts.
- (8) Maintenance Credit for Hardware Malfunction:
- (a) If a machine remains inoperative due to a malfunction through no fault or negligence of the COUNTY for a total of 12 hours or more during any 24-hour period, the CONTRACTOR shall grant a credit to the COUNTY for each such hour in the amount of 1/200th of the prorated monthly maintenance charges for the inoperative machine plus 1/200th of the prorated monthly maintenance charges for any machine or software not usable as a result of the breakdown within each calendar month not to exceed 100% of the prorated monthly maintenance charge; provided that, for Hardware supplied by other vendors, the credit shall be as mutually agreed. Downtime for each incident shall start from the time the COUNTY makes a bona fide attempt to contact the CONTRACTOR's designated representative at the prearranged contact point and continue until the machine is returned in good operating condition; PROVIDED THAT, time required, as a result of the malfunction, to reconstruct data stored on disks and/or other storage media, shall be considered down time for that Hardware required for said reconstruction.
 - (b) Exclusive of the provisions of Paragraph 8a above, the CONTRACTOR shall grant a credit to the COUNTY for any machine being maintained by the CONTRACTOR which fails to perform at an effectiveness level of 95 percent during any month. The effectiveness level for a machine is computed by dividing the operational use time by the sum of that time plus machine downtime. Downtime shall be defined and computed in the same manner as provided in sub-paragraph 8a above. The credit shall be a reduction of the total prorated monthly maintenance charges within each calendar month not to exceed 100% of the prorated monthly maintenance charge by the percentage figure determined by subtracting the actual effectiveness level percentage from 95 percent. For example, if the effectiveness level for a machine is 82 percent, the credit would be 13 percent. Any downtime for which credit was granted in accordance with Paragraph 8a above shall not be included in the effectiveness level computation.

- (c) In the event that a purchased machine which has been installed less than two years is inoperative due to machine failure and the total number of hours of downtime exceeds five percent (5%) of the total operational use time for three consecutive calendar months, the COUNTY reserves the right to require the CONTRACTOR to replace the machine. The purchase option and/or age depreciation credits for the replacement machines shall not be less than the credits accrued from the date of installation of the original machine, regardless of whether the replacement is made at the request of the COUNTY or for the convenience of the CONTRACTOR.
- (9) There shall be no additional maintenance charges for:
 - (a) Preventive maintenance, regardless of when performed.
 - (b) Remedial maintenance which was begun during the principal period of maintenance or extension thereof or when the CONTRACTOR was notified during the principal period of maintenance or extension thereof of the need for remedial maintenance.
 - (c) Remedial maintenance required within a 48-hour period due to recurrence of the same malfunction.
 - (d) Time spent by maintenance personnel after arrival at the site awaiting the arrival of additional maintenance personnel and/or delivery of parts, tools or other required material after a service call has commenced.
 - (e) Remedial maintenance required when the scheduled preventive maintenance preceding the malfunction had not been performed.
- (10) Malfunctioning Hardware must be repaired or a replacement spare installed by the CONTRACTOR's maintenance technician no later than the close of business on the work day following notification of Hardware malfunction.

B. "On-Call" Maintenance:

- (1) The basic annual maintenance charges set forth in Exhibits A and B shall entitle the COUNTY to maintenance service during a principal period of maintenance.
- (2) The principal period of maintenance or extension thereof may be changed by the COUNTY upon fifteen (15) days written notice to the CONTRACTOR.

- (3) Should the COUNTY require maintenance service outside the designated principal period of maintenance or extension thereof on an on-call basis, charges for such additional maintenance service shall be at the CONTRACTOR's current time and materials price rates. Only one maintenance person shall respond to a request for maintenance unless it is mutually agreed that more than one person is required.

C. Replacement Parts:

CONTRACTOR shall furnish replacement parts for the Hardware for a period of five (5) years commencing with the date(s) of acceptance of the Hardware in accordance with acceptance criteria elsewhere in this Contract. After the expiration of said five (5) year period, CONTRACTOR, when requested by the COUNTY, shall furnish all data necessary to enable the COUNTY to purchase such replacement parts or have them manufactured elsewhere.

2.14.39 Engineering Changes:

CONTRACTOR warrants that installation of such engineering changes as CONTRACTOR may from time to time require or recommend shall not cause the performance of the machine modified to be materially degraded below the CONTRACTOR's official published specifications at the time of installation of the Hardware. If such engineering changes are scheduled to take two (2) hours or less, they shall be installed at a mutually agreeable time during contracted hours of maintenance. Engineering changes scheduled to take in excess of two (2) hours shall be installed at a mutually agreeable time.

2.14.40 Implementation Team:

The personnel listed in the vendor implementation team(s) may not be changed without the COUNTY's permission. The team members will be mutually agreed upon and listed as the first implementation task following the signing of this contract.

2.14.41 Sale or Transfer of Contract:

The contract between the vendor and the customer may not be sold or transferred without the COUNTY's written permission.

2.14.42 Survival:

The provisions of paragraphs 2.1.1, 2.1.3, 2.5, 2.12, 2.14.4 2.14.7, 2.14.8, 2.14.9, 2.14.11, 2.14.12, 2.14.13, 2.14.14, 2.14.15, 2.14.20, 2.14.21, 2.14.22 2.14.23, 2.14.25, 2.14.26, 2.14.28, 2.14.31, 2.14.32, and 2.14.43 shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

2.14.43

Entire Agreement:

This written contract, and its corresponding documents listed below represents the entire Agreement between parties and supersedes any prior oral statements, discussions, or understanding between the parties. In the event of any conflict requiring interpretation, the precedence of documents shall be:

1. Negotiated, signed contract.
2. Snohomish County Request for Proposal Number RFP 06-93.
3. Vendors original response to RFP 06-93.
4. Vendors detailed design documents.

IN WITNESS WHEREOF, the CONTRACTOR has executed this agreement on the day and year first below written, and Snohomish county has caused this instrument to be executed by, and in the name of said COUNTY, the day and year first below written.


Executed this 20th day of April, 1994.

COUNTY OF SNOHOMISH:

PRIMARY CONTRACTOR:

By:

By:

for 
Robert J. Drewel
Snohomish County Executive

RICHARD N. SMITH
Executive Director


LYNN SUNAHARA
MANAGER, CONTRACTS

Approved as to Form:


Prosecuting Attorney

Reviewed by Risk Management

APPROVED OTHER () Explain.

Signed:

 Date: 4/15/94

Attachments:

- Exhibit A. Cost Summary
- Exhibit B. Hardware Detail Cost
- Exhibit C. Software Detail Costs and Conditions
- Exhibit D. Warranty and Maintenance Costs and Conditions
- Exhibit E. Source Code and Confidentiality Agreement
- Exhibit F. CSDC Training
- Exhibit G. Graduated Payment Schedule
- Exhibit H. Product Discount Schedule

EXHIBIT A. COST SUMMARY

Part 1. Application and Database Software

CSDC Permit Tracking Software 64 concurrent users	\$ 87,000.00
Option to purchase upgrades in 8 users block for \$10,000 each	
If total number of licenses reach 96, the license becomes for an unlimited number of concurrent users.	

Part 2. Hardware and System Software

Sequent Hardware/Software	\$108,115.00
S2000/290 Dual CPU 160 MB 2000 MB	\$ 82,400
1 GB 3.5" disk	\$ 3,000
Tabletop 4 mm DAT tape hardware	\$ 3,315
4 mm DAT Device Driver, Cable	\$ 2,150
Two (2) Ether-V VME Ethernet	\$ 8,250
S200/2x0 DYNIX/ptx License (25 users)	\$ 6,750
DYNIX/ptx tape media and documentation	\$ 1,500
DYNIX/ptx standard manual set	\$ 750

Part 3. Implementation and Training

Implementation of all above software products	\$ 75,000.00
CSDC Fit Analysis	\$ 20,000
Sequent Project Management	\$ 30,000
Hardware Installation	\$ 0*
* Waived with Service Contract	
Permit Tracking Installation	\$ 5,000
Conversion of 9 existing databases	\$ 20,000
CSDC training :	\$ 18,000.00
23 classes over 23 days training as follows:	
Basic Permit System training (12 classes)	
Permit System Reporting training (5 classes)	
Permit System Data Entry training (5 classes)	
Permit System Administration (1 class)	
Sequent training:	\$ 9,975.00
DYNIX/ptx System Administration (3)	\$ 5,985.00
DYNIX/ptx System Administration I (1)	\$ 1,995.00
DYNIX/ptx System Administration II (1)	\$ 1,995.00

Part 4. Maintenance/Warranty

CSDC Maintenance (75% of One (1) year at \$12,000)	\$ 9,000.00
Sequent Maintenance (Two (2) years)	\$ 13,488.00
CSDC Source Code fee (2% of Maintenance fee (Year 1 = \$9,000 x 2%))	\$ 180.00

GRAND TOTAL

\$320,758.00

The above pricing does not include applicable taxes.

EXHIBIT C. SOFTWARE DETAIL COSTS AND CONDITIONS

CSDC Permit Tracking (64 concurrent users) \$ 87,000
Option to purchase license for additional users in groups of 8 for \$ 10,000. Once the COUNTY purchases 96 licenses, no further licenses are needed to add additional users - the license becomes an unlimited site license.

EXHIBIT D. WARRANTY, LIMITATION OF LIABILITY, SOFTWARE PRODUCT LICENSE, and MAINTENANCE SUPPORT

1. WARRANTY

The CONTRACTOR's and CSDC's products (Products) set forth in Exhibit A are warranted as follows:

- (a) The CONTRACTOR warrants that the Products, which includes the system and all hardware, software and system components provided hereunder, shall perform in conformance with its standard, published specifications and shall also perform in conformance with the specifications in the CONTRACTOR's response to RFP 06-93.
- (b) The hardware Products are warranted against defects in workmanship and material for a period of one year from the date of installation.
- (c) CONTRACTOR warrants that the CONTRACTOR has the right to grant the license rights set forth in this Agreement and that the software Products do not violate any patent, copyright or trade secret of any third party. The CONTRACTOR further warrants that the software Products shall be free from defects in material and workmanship during the following warranty periods:

CONTRACTOR software Products	90 days from installation
CSDC software Products	One year from acceptance

- (d) The stated warranties are contingent upon proper installation (if performed by the COUNTY), proper treatment and use of the Products, and maintenance of a safe and suitable site. EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THIS EXHIBIT D AND ELSEWHERE IN THIS AGREEMENT, THE CONTRACTOR DISCLAIMS ALL OTHER PRODUCT WARRANTIES, INCLUDING WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; and the stated express warranties are in lieu of all obligations or liabilities on the part of the CONTRACTOR arising out of performance of the Products.

2. LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY UNDER SECTION 2.14.13, THE COUNTY'S RIGHT TO RECOVER DAMAGES SHALL BE LIMITED TO THE AMOUNTS PAID BY THE COUNTY UNDER THIS AGREEMENT. THE CONTRACTOR SHALL NOT BE LIABLE IN ANY EVENT FOR ANY DAMAGES RESULTING FROM LOSS OF DATA, PROFITS, USE OF THE PRODUCTS OR FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

3. SOFTWARE PRODUCT LICENSE

- (a) All object code licensed software products, including any subsequent updates, and any part thereof are furnished to the COUNTY under this nonexclusive and nontransferable perpetual license solely for the COUNTY's own internal business use. Any transfer of software must be approved in advance by the CONTRACTOR in writing or such other entity as may be furnishing software.
- (b) No title to nor ownership of the software or any of its parts, nor any applicable intellectual property rights therein such as patents, copyrights and trade secrets, is transferred to the COUNTY.
- (c) Software is unpublished software, trade secret, confidential or proprietary information of the CONTRACTOR or its licensors and is commercial software developed at private expense.
- (d) The COUNTY may make up to three copies of software (with the proper inclusion of existing copyright notices and any other proprietary notices) for archival and backup purposes or to replace a worn or defective copy.
- (e) If the COUNTY is unable to operate the software on the hardware Products provided under this Agreement due to a Hardware malfunction, the software may be transferred temporarily to another system during the period of the Hardware malfunction.
- (f) The COUNTY shall not reverse engineer, reverse compile or reverse assemble the software, in whole or in part.

4. MAINTENANCE SUPPORT

- (a) As stated in Exhibit A Part 4 above, this agreement includes two (2) years of hardware and software maintenance services of the CONTRACTOR Products included in the initial acquisition. Such items consist of the following uplift option: Same Day Service - on-site within 4 hours of a pre-approved site for hardware Product services and a response within 4 hours for software Product services (the COUNTY's Everett, WA site is already pre-approved for such 4 hour response).
- (b) As stated in Exhibit A Part 4 above, of this agreement, includes maintenance support for the CSDC software Products for 1 year. The fee for such support is \$9,000 for the first year which is 75% of the current published rate. Support commences on the day of the CSDC software acceptance by the COUNTY, or the day the COUNTY commences production, whichever is earlier.

At the COUNTY's option, after the first year, the maintenance support fee for CSDC Software Products will be 100% of the then current published rate OR a total increase from the previous full year's fee not to exceed 3% of the previous full year's published fee, whichever is lower. All maintenance fees will be paid by the COUNTY annually in advance. The CONTRACTOR will provide the following services in consideration of this fee:

- (i) Maintenance and enhancement releases of the software;
- (ii) Telephone support with response time not to exceed four (4) hours, during normal business hours (8:00am to 5:00pm Pacific Standard Time).

The CONTRACTOR will also provide consulting services upon request by the COUNTY and acceptance by the CONTRACTOR of the terms and conditions of such request.

The maintenance and support option to renew will recommence each year on the anniversary date. Fees for maintenance and support shall be paid in advance annually and are due within thirty (30) days of invoice.

- (c) The COUNTY may, at any time and at its sole option, elect to receive maintenance services directly from CSDC if the COUNTY deems it more favorable to the COUNTY.
- (d) As stated in Exhibit A Part 4 above, this agreement includes CSDC Source code for the software under the terms and conditions of the "Source Code Confidentiality Agreement" (Exhibit E) and the first year's payment of an additional annual fee of 2% of the maintenance support fee. At the COUNTY's sole option, this agreement shall be extended annually upon payment of a like fee.

EXHIBIT E. SOURCE CODE AND CONFIDENTIALITY AGREEMENT

Whereas Sequent Computer Systems Inc. (Prime Contractor) has subcontracted with CSDC to license CSDC Software to Snohomish County under the terms of a Prime Contract for a Community Development Permit Tracking System executed by Sequent Computer Systems Inc. on _____;

And whereas under the Prime Contract, CONTRACTOR will provide to the COUNTY a copy of the CSDC source code (on a sealed tape) for the Permit Tracking application installed on the COUNTY's computer system.

And whereas the terms of said Prime Contract prohibit the COUNTY, or any other third party hired by the COUNTY or any other company, from accessing the source code (hereinafter referred to as the "source") without the prior written consent of the Prime CONTRACTOR.

Now therefore witnesseth that pursuant to the aforesaid Prime Contract and in addition thereto the COUNTY and CSDC hereby undertake, covenant, and agree as follows:


1. CSDC agrees that it will provide a certified updated copy of the source on a sealed tape after each release of the software in return for the previous release, as long as a valid maintenance contract is in existence. The COUNTY agrees that it will not make use of the source under any circumstances unless CSDC can no longer provide support, due to bankruptcy or any inability to provide maintenance services. Only in the above case shall the COUNTY have absolute right to access the said source and the absolute right to possession and use of the said source for the exclusive use of the COUNTY.
2. The COUNTY hereby agrees and acknowledges that the source which it has in its possession in connection with the Permit Tracking application provided by CSDC is the property of CSDC and is confidential and proprietary and that disclosure of or access of the source for the purpose of modification or copying without the prior written consent of CSDC may cause CSDC to suffer considerable damages.
3. The COUNTY undertakes to hold the source in strictest confidence and that it will not make use of the source for any reason or authorize any access to the source without the prior written consent of CSDC or for reasons stated in clause 1 above.
4. The COUNTY undertakes that only CSDC and its authorized employees and agents requiring access to the source in the performance of their duties will be granted access to the source.

5. The COUNTY undertakes to indemnify CSDC against any and all losses and costs (including reasonable legal fees) which CSDC may incur by reason of the COUNTY's breach of any term, provision, covenant, warranty, or representation contained in this undertaking or in connection with the enforcement of this undertaking or any provision of it.
6. The COUNTY undertakes that neither it nor any individual associated with it or any other company (other than CSDC) will attempt to reproduce or copy any source at any time, nor will it attempt to move any of the source away from the COUNTY's site.
7. The COUNTY undertakes to permit CSDC visual inspection of the sealed tape containing source code for the Permit Tracking application upon request by CSDC.
8. CSDC agrees that it will provide service directly to the COUNTY at the COUNTY's sole option as provided in Prime Contract, Exhibit D, Sections 4-b, 4-c, and 4-d. Upon cancellation or expiration of a valid maintenance contract, the COUNTY must return any source code kept in trust under this Agreement.

Executed this 20th day of April, 1994.

COUNTY OF SNOHOMISH:


By:



 Robert J. Drewel
 Snohomish County Executive

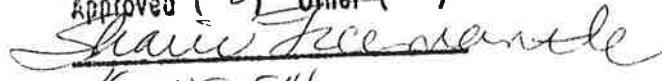
CSDC:

By:



 President
 Title

Reviewed by Risk Management
 Approved () Other ()



 4-15-94

D-4

EXHIBIT F. TRAINING

Permit Tracking Training

Training (as set out in Part 3 of Exhibit A) for the Permit Tracking software will be accomplished in the following manner:

The COUNTY will provide a special training facility, designed to accommodate up to twelve students. All Hardware and connections to the system will be provided by the County. As set out in Exhibit A, Part 3, The COUNTY will pay a flat sum of \$18,000 for a qualified CSDC instructor. Instructor will provide all pertinent user reference manuals, and handouts to each student for no additional fees. At this time, the COUNTY envisions 23 days of training consisting of 4 different courses identified below:

- (1) Basic Functions Course: Introductory course, which will be a prerequisite to all subsequent classes. This class will be an introduction to the Permit Tracking System, and its standard functions, and teach the user to do simple data look-up functions. This would not include printing reports or other more advanced features such as data entry, or supervisory functions. Final course outline and user reference manual will be defined in the Fit Analysis Document. Estimated student count for this class is approximately 144. Estimated course duration is 1 day. Total class days of instruction is 12.
- (2) Data Entry Course: This course will teach the input of permit information and the maintenance of processes associated with a permit. It includes the hands on use of system standard functions including basic reporting functions. Final course outline and user reference manual will be defined in the Fit Analysis Document. Estimated student count for this class is approximately 60. Estimated course duration is 1 day. Total class days of instruction is 5.
- (3) Management Reporting Course: This course includes the hands on use of system standard functions, and will teach advanced query and reporting techniques to provide for specialized supervisory and management reporting requirements. Final course outline and user reference manual will be defined in the Fit Analysis Document. Estimated student count for this class is approximately 60. Estimated course duration is 1 day. Total class days of instruction is 5.
- (4) Systems Administration Course: This course includes the hands on use of system standard functions, and will teach user to create and maintain system parameter files and defaults, security, and other tasks required to maintain the Permit Tracking System. Final course outline and user

reference manual will be defined in the Fit Analysis Document. Estimated student count for this class is approximately 12. Estimated course duration is 1 day. Total class days of instruction is 1.

The actual scope size, and schedule of the classes will be determined in the Fit Analysis stage of the project implementation and incorporated into a training plan. This training plan will be made a part of the Fit Analysis Document and approved in writing by Community Development's representative.

Any additional training sessions beyond the 23 class days identified above will be held at an additional charge of \$750.00 per day, plus a \$25.00 fee per student if course materials are provided.

Data Processing Staff Training

Training designed specifically for the Data Processing (DP) staff will be accomplished in the following manner:

CONTRACTOR will provide the DP Staff and DYNIX Training in Section 6 of proposal. The COUNTY reserves the right to adjust the curriculum selection based on COUNTY staff experience levels and to send additional students. The COUNTY may desire to obtain this training on-site, or to attend or sponsor a regional training session, allowing multiple companies to attend as a regional offering. Final arrangements for DP staff training will be made during the Customer Engineering Site Visit scheduled in the Project Implementation Plan.

EXHIBIT G. GRADUATED PAYMENT SCHEDULE

The use of "months" is an approximation of when these activities occur:

MONTH 1

Sequent Maintenance payment	\$ 13,488.00
CSDC Maintenance payment	\$ 9,000.00
CSDC Source Code confidentiality fee	\$ 180.00
Hardware (Sequent 50% upon acceptance of installation)	\$ 54,057.50
Project Management	\$ 5,000.00

MONTH 2

Hardware (Sequent 25% given prior acceptance)	\$ 27,028.75
Project Management	\$ 5,000.00

MONTH 3

Fit Analysis Acceptance (CSDC Payment 20%)	\$ 30,000.00
Project Management	\$ 5,000.00

MONTH 4

Project Management	\$ 5,000.00
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MONTH 5

Acceptance of Installation of Permit Tracking Software (CSDC Payment 30%)	\$ 45,000.00
Project Management	\$ 5,000.00

MONTH 6

Permit Tracking Software in Production (CSDC Payment 25%)	\$ 37,500.00
Project Management	\$ 5,000.00

MONTH 7

Permit Tracking Software Upon Acceptance	
Permit Tracking Documentation Complete (CSDC Payment 25%)	\$ 37,500.00
Hardware upon Acceptance (Sequent Payment 25%)	\$ 27,028.75

Sequent education services payable upon delivery	\$ <u>9,975.00</u>
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TOTAL	<u>\$320,758.00</u>
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(Installation, acceptance, and performance period defined next page)