

AGREEMENT FOR  
PROFESSIONAL CONSULTANT SERVICES FOR  
PUBLIC SAFETY RADIO/WIRELESS  
TELECOMMUNICATIONS NETWORK

NASSAU COUNTY, FLORIDA

THIS AGREEMENT entered into this 8th day of December, 2004, by and between the BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, a political subdivision of the State of Florida, (hereinafter referred to as "County") and L. ROBERT KIMBALL & ASSOCIATES, (hereinafter referred to as "Kimball") a Pennsylvania Corporation authorized to do business in the State of Florida at 200 South Harbor City Boulevard, Melbourne, Florida 32901-1389.

The County and Kimball in consideration of the mutual promises hereinafter set forth and in subsequently issued supplemental Agreements agree as set forth below:

**ARTICLE 1 - GENERAL**

**1.1 Standard of Care**

KIMBALL shall perform for or furnish to the COUNTY professional consulting services in all phases of the Project to which this Agreement applies as hereinafter provided. KIMBALL may employ such Consultants as KIMBALL deems necessary to assist in the performance or furnishing

of professional services hereunder. KIMBALL shall not be required to employ any Consultant unacceptable to KIMBALL.

The standard of care for all professional consulting services performed or furnished by KIMBALL under this Agreement will be the care and skill ordinarily used by members of the telecommunication consulting profession practicing under similar conditions at the same time and in the same locality.

## **1.2 Definitions**

Wherever used in this Contract, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

**ADDITIONAL SERVICES:** Additional Services means professional services to be performed for or furnished to the COUNTY by KIMBALL, other than services described in Exhibit "A" of this Agreement.

**AGREEMENT:** Agreement means this Agreement between the COUNTY and KIMBALL for Professional Consulting Services, including those exhibits listed in this Agreement.

**BASIC SERVICES:** Basic Services means the professional consulting services to be performed for or furnished to the COUNTY by KIMBALL as listed in Exhibit "A" of this Agreement.

**PROJECT DELIVERABLES:** Project Deliverables mean those items of KIMBALL's work product that are ultimately to be delivered to COUNTY as enumerated in Exhibit "A".

**ARTICLE 2 - BASIC SERVICES OF KIMBALL**

**2.1 Project Deliverables**

**2.1.1** Those Basic Services and Project Deliverables to be performed and furnished as contained in Exhibit "A".

**2.1.2** Within thirty (30) calendar days after each delivery, the COUNTY shall review each Project Deliverable for the purpose of determining whether, in the COUNTY's opinion, each Project Deliverable has been completed in accordance with KIMBALL's Standard of Care (paragraph 1.1) and the other provisions of this Agreement. If in the COUNTY's opinion, any Project Deliverable does not meet KIMBALL's Standard of Care or other provisions of this Agreement, the COUNTY shall within the thirty (30) day period notify KIMBALL in writing of the deficiency that the COUNTY believes exists in the Project Deliverable. Otherwise, the Project Deliverable will be deemed acceptable to the COUNTY.

### **ARTICLE 3 - ADDITIONAL SERVICES**

All modifications or additions to the Basic Services and Project Deliverables as outlined in Exhibit "A" will require prior written approval of the COUNTY or its designee and shall be based on the current fee schedule as listed in Exhibit "B" of this Agreement. Additional Services fee and/or schedule modifications, if approved, will be made part of this Agreement through issuance of a written Supplemental Agreement.

### **ARTICLE 4 - COUNTY OR IT'S DESIGNEE'S RESPONSIBILITIES**

Except as otherwise provided in Exhibit "A", the COUNTY shall accomplish the following in a timely manner so as not to delay the services of KIMBALL and the COUNTY shall bear all costs incidental to compliance with the requirements of this Section.

4.1 Designate in writing a person to act as the COUNTY's representative with respect to the services to be performed or furnished by KIMBALL under this Agreement. Such person will have complete authority to transmit instructions, receive information and interpret and define the COUNTY's policies and decisions with respect to KIMBALL's services for the Project.

4.2 Assist KIMBALL by placing at KIMBALL's disposal all available and pertinent reports, data, and other

information needed by KIMBALL to carry out the services to be provided under this Agreement.

4.3 Give written notice to KIMBALL whenever COUNTY observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of KIMBALL's services, or any defect or nonconformance in KIMBALL's services or in the work of KIMBALL. Nonetheless, COUNTY does not have a duty to search and find defects or nonconformance in KIMBALL's services, except as required in Paragraph 2.1.2.

#### **ARTICLE 5 - PERIODS OF SERVICE**

5.1 The provisions for this Section 5 and the rate of compensation for KIMBALL's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. KIMBALL's obligation to render Basic Services hereunder will extend for a period of not less than three hundred sixty five (365) days from the date of the Notice To Proceed. If the COUNTY or its designee has requested significant modifications or changes in the general scope, extent or character of the Project, the time of performance of KIMBALL's services shall be adjusted equitably as agreed upon in writing by the COUNTY or its designee and KIMBALL.

5.2 The term of this Agreement shall be for a period of not less than one (1) year and will continue until such time that a satisfactory final acceptance test of the new system has been performed and accepted by the COUNTY.

**ARTICLE 6 - PAYMENTS TO KIMBALL**

**6.1 Methods of Payment for Services and Expenses**

6.1.1 Basic Services: The COUNTY shall pay KIMBALL for Basic Services rendered a fee not to exceed \$122,800.00 for all Basic Services which is broken down into three phases as follows: Phase I \$62,800, Phase II Not to Exceed \$20,000, and Phase III Not to Exceed \$40,000. The dollar amounts represented for each Phase are inclusive of all costs associated with travel, expenses and reproduction costs. Invoicing for all phases will occur on a monthly basis for work completed during the previous month, up to the amount defined for the current Phase(s). For each of the three (3) phases, Nassau County will pay Kimball at the completion of the 10%, 30%, 60%, and 100% benchmarks based on a Gantt chart project schedule. Kimball is responsible for submitting the Gantt chart to the County for approval prior to the issuance of the Notice To Proceed.

6.1.2 Additional Services: The COUNTY shall pay KIMBALL for Additional Services as required by the COUNTY, rendered herein and in accordance with Article 3 of this agreement. Additional Services provided by KIMBALL shall have the prior written approval of the COUNTY or its designee.

## 6.2 PAYMENTS

If the COUNTY or its designee fails to make any payment due KIMBALL for services within forty five (45) days after receipt of KIMBALL's invoice, the amount due KIMBALL will be increased at the rate of one and one-half percent (1½%) per month from said forth fifty (45<sup>th</sup>) day, and in addition, KIMBALL may, after giving seven (7) days written notice to COUNTY or its designee, suspend services under this Agreement until KIMBALL has been paid in full all amounts due for services, expenses and charges, including all accrued unpaid interest without KIMBALL incurring liability due to such suspension.

## ARTICLE 7 - TRUTH-IN-NEGOTIATION CERTIFICATE

The signing of this Agreement by KIMBALL shall act as the execution of a truth-in-negotiation certificate certifying that the amount used to determine the compensation provided for in this Agreement is accurate, complete, and current as of the date of the Agreement

**ARTICLE 8 - TERMINATION**

This Agreement may be terminated by the COUNTY, with or without cause, immediately upon written notice to KIMBALL.

Unless KIMBALL is in breach of this Agreement, KIMBALL shall be paid for services rendered to the COUNTY's satisfaction through the date of termination. After receipt of a Termination Notice and, except as otherwise directed by the COUNTY, KIMBALL shall:

- A. Stop work on the date to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other material related to the terminated work to the COUNTY.

**ARTICLE 9 - PERSONNEL**

A. KIMBALL represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

B. All of the services required hereunder shall be performed by KIMBALL or under its supervision, and all personnel engaged in performing the services shall be fully



qualified and, if required, authorized or permitted under State and Local law to perform such services.

C. KIMBALL warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

**ARTICLE 10 - INDEPENDENT CONTRACTOR RELATIONSHIP**

A. KIMBALL is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times and in all places be subject to KIMBALL's sole direction, supervision, and control.

B. KIMBALL shall exercise control over the means and manner in which it and its employees perform the work, and, in all respects KIMBALL's relationship and the relationship of its employees to the COUNTY, shall be that of an Independent Contractor and not as employees or agents of the COUNTY. KIMBALL does not have the power or authority to bind the COUNTY in any promise, Agreement, or representation other than specifically provided for in this

**ARTICLE 11 - INSURANCE**

A. KIMBALL shall not commence work under this Agreement until it has obtained all insurance required

under this Paragraph, and such insurance has been approved by the COUNTY.

B. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. KIMBALL shall furnish Certificates of Insurance to the COUNTY prior to the commencement of operations. The Certificates shall clearly indicate that KIMBALL has obtained insurance of the type, amount, and classification as required for strict compliance with this Paragraph, and that no material change or cancellation of the insurance shall be effective without thirty (30) days' prior written notice to the COUNTY. Compliance with the foregoing requirements shall not relieve KIMBALL of its liability and obligations under this Agreement.

C. KIMBALL shall maintain, during the term of this Agreement, standard Professional Liability Insurance in the Amount of \$1,000,000.00 per occurrence.

D. KIMBALL shall maintain, during the term of this Agreement, adequate Workers' Compensation Insurance and Employers' Liability Insurance in at least such amounts as are required by law for all of its employees pursuant to Florida Statutes, Section 440.02.

**ARTICLE 12 - INDEMNIFICATION**

KIMBALL shall indemnify and hold harmless the COUNTY, and its Officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or wrongful conduct of KIMBALL and/or any persons employed or utilized by KIMBALL in the performance of the Agreement.

**ARTICLE 13 - SUCCESSORS AND ASSIGNS**

The COUNTY and KIMBALL each binds itself and its partners, successors, executors, administrators, and assigns to the other party, in respect to all covenants of this Agreement. Except as set forth herein, neither the COUNTY nor KIMBALL shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, which may be party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and KIMBALL.

**ARTICLE 14 - CONFLICT OF INTEREST**

KIMBALL represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of

services required hereunder. KIMBALL further represents that no person having any interest shall be employed for said performance.

KIMBALL shall promptly notify the COUNTY in writing by certified mail of any potential conflicts of interest for any prospective business association, interest, or other circumstance, which may influence or appear to influence KIMBALL's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that KIMBALL may undertake and request an opinion of the COUNTY, whether such association, interest, or circumstance constitutes a conflict of interest if entered into by KIMBALL.

The COUNTY agrees to notify KIMBALL of its opinion by certified mail within thirty (30) days of receipt of notification by KIMBALL. If, in the opinion of the COUNTY, the prospective business association, interest, or circumstance would not constitute a conflict of interest by KIMBALL, the COUNTY shall so state in the notification, and KIMBALL shall, at his/her option enter into said association, interest, or circumstance, and it shall be deemed not in conflict of interest with respect to services

provided to the COUNTY by KIMBALL under the terms of this Agreement.

**ARTICLE 15 - FINANCIALS**

KIMBALL further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

**ARTICLE 16 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

KIMBALL shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Agreement.

KIMBALL shall comply with the provisions of Florida Statutes, Chapter 119 (Public Records Law).

**ARTICLE 17- ACCESS AND AUDITS**

KIMBALL shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the Work for at least three (3) years after completion of this Agreement. The COUNTY and the Clerk of Courts shall have access to such books, records, and documents as required in this Section for the purpose of inspection or audit during normal business hours, at the COUNTY's or the Clerk's cost, upon five (5) days' written notice.

**ARTICLE 18 - NONDISCRIMINATION**

KIMBALL warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, age, or national origin.

**ARTICLE 19 - ENTIRETY OF CONTRACTUAL AGREEMENT**

The COUNTY and KIMBALL agree that this Agreement, Exhibit(s), and any Supplemental Agreements, set forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms, and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

**ARTICLE 20 -AUTHORITY TO PRACTICE**

KIMBALL hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner.

**ARTICLE 21 - SEVERABILITY**

If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be held invalid or unenforceable, the

remainder of this Agreement, or the application of such item(s) or provision(s), to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other item and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**ARTICLE 22 - FLORIDA LAW**

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement shall be held in Nassau County.

**ARTICLE 23 - DISPUTES**

Any dispute arising under this Agreement shall be addressed by the representatives of the COUNTY and KIMBALL as set forth herein. Disputes shall be set forth in writing to the County Administrator, and provided by overnight mail, UPS, FedEx, or certified mail, with a response provided in the same manner prior to any meetings of representatives. The initial meeting shall be with the County Administrator and any additional representative(s) he/she deems necessary and KIMBALL's representative(s). If the dispute is not settled at that level, the County Attorney shall be notified in writing by the County Administrator or his/her designee, and the County Attorney, County Administrator and his/her designee shall meet with

KIMBALL's representative(s). Said meeting shall occur within sixty (60) days of the notification by the County Administrator or his/her designee. If there is no satisfactory resolution, the claims, disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof, if not disposed of by Agreement as set forth herein, shall be submitted to mediation in accordance with mediation rules as established by the Florida Supreme Court. Mediators shall be chosen by the COUNTY and the cost of mediation shall be borne by KIMBALL. If either party initiates a Court proceeding, and the Court orders, or the parties agree to, mediation, the cost of mediation shall be borne by KIMBALL. KIMBALL shall not stop work during the pendency of mediation or dispute resolution. No litigation shall be initiated unless and until the procedures set forth herein are followed.

**ARTICLE 24 - NOTICE**

All notices required in this Agreement shall be sent via certified mail, return receipt requested, and, if sent to the COUNTY shall be mailed to:

Michael Mahaney, County Administrator  
Nassau County Administrator's Office  
96160 Nassau Place  
Yulee, FL 32097



For invoices:

Nassau County Board of County Commissioners  
c/o J. M. "Chip" Oxley, Jr.  
Post Office Box 4000  
Fernandina Beach, FL 32035-4000


And, if sent to KIMBALL, shall be mailed to:

R. Kevin Murray, Senior Vice President  
L. Robert Kimball & Associates  
180 Regent Court  
State College, PA 16801

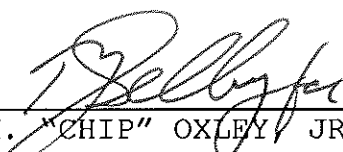
IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in two (2) copies, each of which shall be deemed an original on the date first above written.

OWNER:

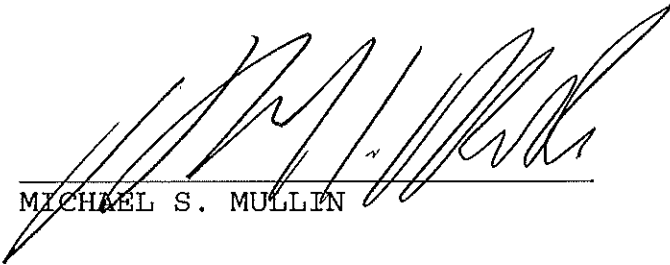
BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

  
\_\_\_\_\_  
FLOYD W. VANZANT  
Its: Chairman

ATTEST:

  
\_\_\_\_\_  
J. M. "CHIP" OXLEY, JR.  
Its: Ex-Officio Clerk

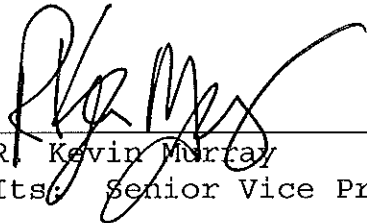
Approved as to form by the  
Nassau County Attorney



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MICHAEL S. MULLIN

CONSULTANT:  
L. ROBERT KIMBALL & ASSOCIATES



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R. Kevin Murray  
Its: Senior Vice President

**EXHIBIT "A"**

## EXHIBIT "A"

### Basic Services / Project Deliverables

#### 1. Phase 1 - Needs Assessment & System Design Requirements

The Consultant shall perform a needs assessment of immediate communication requirements. The study should focus on in-depth interviews with user agencies to assess user agency needs. The needs assessment will identify areas of improvement and preliminary system design requirements. The Consultant shall address both present and future County communication needs. As part of the needs assessment and system design requirements, the Consultant shall recommend provisions for the continuity, maintenance of and continuous training of personnel for the new Network system. The Consultant shall insure that provisions are made to update the Network as new technology develops.

The Consultant may be requested to develop a five year communications plan to pursue any public safety communication needs which may not be immediately addressed. Compensation for this optional phase shall be based on the County's requirements for the Plan, and a mutually agreed upon estimate of hours to complete the Plan at the current fee schedule as listed in Exhibit "B" of this Agreement.

The County anticipates that it will be necessary to keep in use certain components of the existing systems. The Consultant during its review shall determine what, if any components of the existing system would remain. The Consultant will be responsible for obtaining new radio frequency licenses if the needs assessment deems they are necessary. Any frequency Coordination and FCC filing fees will be borne by the County.

Based on the information gathered during the needs assessment, the Consultant will develop design standards for the system including, but not limited to the following:

- a. System Requirements
- b. Radio Coverage Area
- c. Antenna and Site Configurations

#### d. Equipment Specifications

The Consultant will provide detailed cost estimate(s) associated with the system design requirements. These estimates will make up the budget for a turnkey system. The County will require that the Consultant be able to modify cost estimates based on size, complexity and technologies used in the system. It is the County's intent to address immediate communications needs first and to pursue long-range needs only if funding is available. The Consultant will also provide cost estimates for ongoing software/hardware costs on an annual basis.

### **2. Phase 2 - Request For Proposal Package**

#### **a. Preparation of RFP**

The Consultant shall develop a Request For Proposal (RFP) package to create the new network system based on the information obtained during the needs assessment. The network shall be consistent with the latest technology as well as the most recent Federal Telecommunications Act provisions. The Consultant will be required to develop a list of distribution sources and contacts in which the RFP will be posted.

#### **b. Review / Analyze RFP Packages**

The Consultant will be required to attend the RFP opening and review all RFP applications received by the County. The Consultant shall analyze the proposals received, make recommendations to the County and assist and advise the County in the analysis of RFP applications. This could include attending meetings with the applicants, County staff and County officials, as required. The Consultant shall make recommendation in writing to the County whether a particular application should be approved or disapproved and set forth in writing the reasons for such approval or disapproval. The Consultant shall assist the County Attorney and/or his designee in contract negotiations with the selected firm.

**3. Phase 3 - Installation and Implementation of the Network**

Once the contract for the new system is awarded, the Consultant will assist in the installation and implementation phase of the project in order to ensure vendor compliance with all system requirements and equipment specifications, inspect each phase, and recommend approval to the County of partial and final payments to the firm.

**4. Phase 3 (cont.) - Final Inspection and Acceptance Testing**

The Consultant shall be responsible for development and administration of a final acceptance test for the installed system, which is consistent with Public Safety Standards (TIA/TSB 88, 95%/95%).

The Consultant shall perform inspections, review and certify the construction of the Network equipment and facility. The Consultant shall make recommendations in writing as to whether or not the County should accept or reject the Network.

Exhibit "B"

Professional Fee Schedule  
L. Robert Kimball & Associates, Inc.

| Title/Position                               | Rate      |
|--|-----------|
| Principal                                    | \$ 175.00 |
| Enterprise Network Communications Consultant | \$ 175.00 |
| Senior Information Security Consultant       | \$ 170.00 |
| Telecommunications Manager                   | \$ 165.00 |
| Senior Consultant                            | \$ 150.00 |
| Senior Project Manager                       | \$ 145.00 |
| Senior Technical Specialist                  | \$ 145.00 |
| Security Consultant                          | \$ 145.00 |
| Project Manager                              | \$ 125.00 |
| Telecommunications Specialist III            | \$ 130.00 |
| Telecommunications Specialist II             | \$ 115.00 |
| Telecommunications Specialist                | \$ 100.00 |
| Grant Writer / Administrator                 | \$ 115.00 |
| Data Analyst                                 | \$ 97.00  |
| Emergency Planner                            | \$ 97.00  |
| Technical Writer                             | \$ 82.00  |
| GIS Specialist                               | \$ 77.00  |
| 9-1-1 Specialist                             | \$ 71.00  |
| CADD Opr/Draftsperson                        | \$ 71.00  |
| Clerical/Secretary                           | \$ 51.00  |
| Data Collector                               | \$ 36.00  |

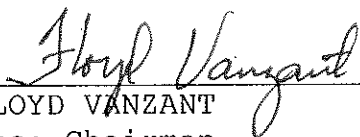
NOTICE TO PROCEED

To: L. Robert Kimball & Assoc. Date: Dec. 8, 2004  
180 Regent Court Project: Bid No. N/A  
State College, PA 16801

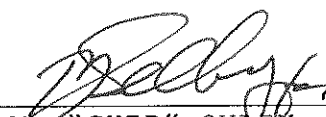
You are hereby notified to commence work in accordance with the Agreement dated the 8<sup>th</sup> day of December, 2004, on or before the 14<sup>th</sup> day of December, 2004, and you are to substantially complete the Work within the specified timeframes as outlined in the Gantt chart dated November 30, 2004.

OWNER:

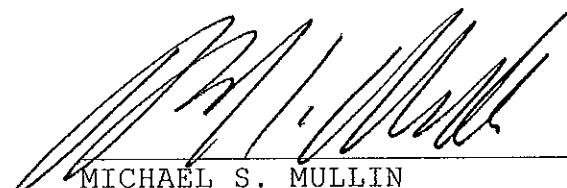
BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

  
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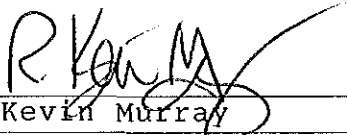
Approved as to form by the  
Nassau County Attorney

  
\_\_\_\_\_  
MICHAEL S. MULLIN

**ACCEPTANCE OF NOTICE**

Receipt of the above Notice To Proceed is hereby  
acknowledged by:

R. Kevin Murray, this 13th day  
of December, 2004.



By: R. Kevin Murray  
Its: Senior Vice President  
Telecommunications & Technology





L. Robert Kimball & Associates  
Architects and Engineers

180 Regent Court, State College, PA 16801 Phone: 814-867-4566 Fax: 814-867-4572  
www.lrkimball.com E-Mail: statecrgn@lrkimball.com

December 13, 2004

Mr. J.M. Oxley, Jr.  
Ex-Officio Clerk  
Nassau County  
Board of Commissioners  
PO Box 1010  
Fernandina Beach, FL 32035-1010

Re: Public Safety Radio/Wireless Telecommunications Network

Dear Mr. Oxley, Jr.:

I have enclosed one original Notice to Proceed for the above-mentioned project. We look forward to working with you on this project.

Sincerely,

A handwritten signature in cursive script that reads 'Ginger A. Cox'.

Ginger A. Cox  
Projects Accountant

Enclosure

Cc: Project File