

## PROCUREMENT OFFICE

2 seats of StreamerRT  
Terms: 9/12/15-9/11/16  
Not auto renew

September 10, 2015

Earth Networks, Inc.  
12410 Milestone Center Dr.  
Germantown, Md. 28076

Re: NOTICE TO PROCEED  
CONTRACT #2015-023LW

Dear Mr. Smith;

You are hereby instructed to proceed with the above project. Your contact for this project will Mr. Matt Gibbons and he can be reached at 843-280-5574 or on his cell at 843-241-8170. Matt will advise you of your start date and will answer any questions that you may have.

We look forward to working with you on this project. Should you have any questions concerning this contract during the term of this project, please call me at 843-280-5577.

Sincerely,

A handwritten signature in black ink, appearing to read "Loy Williford". The signature is written in a cursive style and is positioned above the typed name.

Loy Williford  
Purchasing Agent  
1120 2<sup>nd</sup> Ave. South  
North Myrtle Beach SC 29582

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

CITY OF NORTH MYRTLE BEACH  
Contract Number 2015-023LW

THIS AGREEMENT, effective August 19, 2015, is entered into by and between the City of North Myrtle Beach, 1018 Second Avenue South, North Myrtle Beach, South Carolina 29582 (hereinafter referred as "City"), and EARTH NETWORKS, INC. , dba Weatherbug , 12410 Milestone Center Drive, Suite 300, Germantown Md. 28076 (hereinafter referred to as "Company" or contractor ).

NOW THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, the parties hereto agree as follows:

1. **Scope of Contract.** Company shall provide all materials and labor to provide an Outdoor Lightning Alerting Horn and Strobe System as required by RFQ 2015-023LW and in accordance with the Proposal herein.
2. **Compensation.** City agrees to pay the Company, \$17,500.00 for scope of work and there shall be no deviation from these charges without a written change order as provided for herein. The charges shall include all tariffs, taxes, fees and other assessments imposed from time to time by any federal, state, or local governments.
3. **Insurance.** Company and all subcontractors shall provide an original certificate of insurance as set forth in the referenced solicitation document.
4. **Independent Contractor.**
  - 4.1 It is understood and agreed that the Company (including Company's employees) is an independent Contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither Company nor Company's assigned personnel shall be entitled to any benefits payable to employees of City. City is not required to make any deductions or withholdings from the compensation payable to Company under the provisions of this Contract, and Company shall be issued a Form 1099 for its services hereunder if applicable. As an independent Company, Company hereby agrees to indemnify and hold City harmless from any and all claims that may be made against City based upon any contention by any of Company's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefore exists for any purpose whatsoever by reason of this Contract or by reason of the nature and/or performance of any work and/or the furnishing of any materials under this Contract.
  - 4.2 It is further understood and agreed by the parties hereto that Company, in the performance of its obligations hereunder, is subject to the control and direction of City as to the designation of tasks to be performed and the results to be accomplished, but not as to the means, methods, or sequence used by Company for accomplishing such results. To the extent that Company obtains permission to, and does, use City facilities, space, and equipment or support services in the performance of this Contract, this use shall be at the Company's sole discretion based on the Company's determination that such use will promote Company's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Contract, the City does not require that Company use City facilities, equipment or support services or work in City locations in the performance of this Contract.
  - 4.3 If in the performance of this Contract, any third persons are employed by Company, such persons shall be entirely and exclusively under the direction, supervision, and control of Company. Except as may be specifically provided elsewhere in this Contract, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by Company. It is further

understood and agreed that Company shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of Company's assigned personnel and subcontractors.

4.4 Except as City may specify in writing, Company and Company's personnel shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Company and Company's personnel shall have no authority, express or implied, to bind City to any obligations whatsoever.

4.5 The provisions of this Section 4 shall survive any expiration or termination of this Contract. Nothing in this Contract shall be construed as to create an exclusive relationship between the City and the Company.

5. **Assignment.** The expertise and experience of the Company are material considerations for this Contract. City has a strong interest in the qualifications and capability of the persons and entities that will fulfill the obligations imposed on the Company under this Contract. In recognition of this interest, Company shall not assign any right or obligation pursuant to this Contract without the written consent of the City. Any attempted or purported assignment without City's written consent shall be void and of no effect.

6. **Subcontractors.** All subcontractors are subject to prior approval by the City. The Company shall only furnish employees who are competent and skilled for work under this contract. If, in the opinion of the City, an employee or subcontractor of the Company is incompetent or disorderly, refuses to perform in accordance with the terms and conditions of the contract, threatens or uses abusive language while on City property, or is otherwise unsatisfactory, that employee or subcontractor shall be removed from all work under this contract.

7. **Modification / Change Orders.** Any change orders, alterations, amendments or other modifications hereunder shall not be effective unless reduced to writing, signed by the City and Company, and executed with the same formality as this contract.

8. **Termination**

A. **Term and Termination.** This contract shall have a twelve (12) month term (initial term). This contract may be terminated pursuant to the referenced solicitation document.

This Contract is subject to the budget and fiscal provisions of the City of North Myrtle Beach. The City's payment obligation under the Contract shall not at any time exceed the amount of funds appropriated and approved for such purpose by the North Myrtle Beach City Council. The Contract shall terminate without penalty at the end of the fiscal year in the event funds to make payment under the Contract are not appropriated and approved for such purpose by the City Council for the succeeding fiscal year. If such funds are appropriated for only a portion of the fiscal year this Contract shall terminate, without penalty, at the end of the term for which funds have been appropriated. In the event of such termination, the Company shall not be entitled to recover any costs incurred after termination. Notwithstanding any provision of the Contract Documents to the contrary, this section shall govern over any other provision of the Contract.

B. **Termination for Cause.** If the Purchasing Agent determines that the Company's performance is not satisfactory, and notifies the Company of such determination in writing, the Company shall correct the unsatisfactory condition(s) within 5 days after receiving such notification. If the Company fails to correct the unsatisfactory condition(s) within 5 days, the Purchasing Agent may declare the Contract terminated upon 30 days written notice and may, in the Purchasing Agent's sole discretion, demand performance by the Company, if any, or contract for performance of all or part of the remainder of Contract with another contractor. In the event two such notices of unsatisfactory performance are given in any calendar year, and in the event that company shall again fail to satisfactorily perform pursuant to the Contract, City may thereupon terminate the Contract immediately, with no prior notice. In the event of termination hereunder, the com-

pany shall be liable and assessed for any and all costs for re-procurement and completion of the Contract.

C. **Termination After Completion Date.** If the Company fails to complete its performance of the Contract within the time specified in the Contract (including any approved extension of such time), if any, the Contract may be terminated and, in the event of such termination, the company shall not be paid or allowed any further compensation for any costs incurred after such termination. The City may thereafter proceed to complete the Contract either by re-bidding or otherwise, and the company shall be liable to the City for all loss or damage that the City may suffer on account of the company's failure to complete the Contract on time.

D. **Termination for Convenience.** The City may terminate the contract in whole or in part, for its convenience and without cause upon giving written notice to the company. The City shall pay for product received up to the date of termination. The company shall not be reimbursed for any anticipatory profits which have not been earned, or any other costs which have not been incurred, as of the date of termination.

9. **Confidentiality.** During performance of this contract, Contractor may gain access to and use City information regarding products, prices, costs, future plans, business affairs, governmental affairs, processes, technical matters, customer lists, product design, data, and other vital information (hereafter collectively referred to as "City Information") which are valuable, special and unique assets of the City. Contractor agrees to protect all City information and treat it as strictly confidential, and further agrees that Contractor shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party without the prior written consent of City. A violation by contractor of this Section shall be a material violation of this Contract and the City shall be entitled to seek legal and or equitable relief.

10. **Warranty.** Company's services are warranted and will be performed in a timely and workmanlike manner and such services shall meet in addition to the response to the referenced solicitation document.

11. **Indemnification.** The Successful Company and any of its subcontractors shall indemnify, defend, hold harmless and reimburse the City, its agents, officers and employees from and against any and all losses, liabilities, expenses, and all claims for damages of any nature whatsoever, relating to or arising out of any negligent or wrongful action or failure to act, by the Company, its subcontractors, officers, agents and employees, or relating to or arising out of the negligence of the Company, its subcontractors, officers, agents and employees of any of the obligations under this Agreement. Losses, liabilities, expenses and claims for damages shall include, but not be limited to, civil and criminal fines and penalties, a taking, whether direct or indirect (inverse), loss of use and/or services, bodily injury, death, personal injury, or injury to real or personal property, defense costs, legal fees and costs and reasonable attorney's fees for an appeal.

12. **Force Majeure/Unavoidable Delay.** Company shall not be liable for any excess costs if the failure to perform hereunder arises out of causes beyond the control and without the fault or negligence of company. City shall not be liable for any failure to pay for the services hereunder for any breach of contract if the failure or breach arises out of causes beyond the control and without the fault or negligence of City. Such causes may include, but are not restricted to, acts of God or the public enemy, acts of the federal or state in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of company or City. The foregoing shall be regarded as an "unavoidable delay" as that term is used in this contract.

13. **Compliance with Laws.** The Company shall be responsible for strict compliance with all applicable laws, reg-

ulations, court orders and other legal requirements applicable to the work to be accomplished pursuant to the Contract, including without limitation the South Carolina Department of Health and Environmental Control, South Carolina Occupational Safety and Health Act and all applicable safety orders issued by the Division of Occupational Safety and Health, State of South Carolina and all applicable requirements of Underwriters Laboratories and the Federal Communication Commission.

14. **Breach / Waiver.** No term or provision hereof shall be deemed waived unless breach thereof is waived in writing and signed by the party claimed to have waived and consented. No consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall constitute a consent to, or waiver of, or excuse for, any difference or subsequent breach.

15. **Applicable Law.** In addition to the applicable Federal Laws and Regulations, this contract is also made under and shall be construed in accordance with the laws of the State of South Carolina. By execution of this contract, the company agrees to submit to the jurisdiction of the State of South Carolina for all matters arising or to arise hereunder, including but not limited to performance of said contract and payment of all licenses and taxes of whatever kind or nature applicable hereto.

16. **Severability.** If any term or provision of this contract shall be found to be illegal or unenforceable, then, notwithstanding any such illegality or unenforceability, the remainder of said contract shall remain in full force and effect and such term or provision shall be deemed to be deleted and severable therefrom.

17. **Entire Agreement and Priority of Documents.** This document and the terms and conditions provided by Earth Networks will constitute the entire agreement between the parties with respect to the subject matter contained herein and may only be modified by an amendment executed in writing by both parties. Notwithstanding the foregoing, if there is a conflict between this document and the terms and conditions provided by Earth Networks, this document shall prevail. Company hereby agrees, except where this contract specifically indicates otherwise, all written referenced solicitation documents, specifications, brochures and sales materials presented by Company to City leading to this contract, and all other Company representations, commitments, warranties prior to and in connection with this contract, shall be deemed to be, and are, incorporated by reference into and made a part of this contract. Except as otherwise expressly stated, in the event of a conflict in the interpretation of the contract, the order of priority in descending order is (i) this document, (ii) the referenced solicitation document, and then (iii) the Response.

IN WITNESS WHEREOF, the Company and the City have executed this contract this day on August 19, 2015:

**EARTH NETWORKS, INC. ,**

Signed: [Signature]

Date: Sept. 8, 2015

Witness: [Signature]

Date: Sept 8, 2015

**CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA**

Signed: [Signature]  
Mike Mahaney, City Manager

Date: 9-9-15

Witness: [Signature]

Date: 9-9-15

ATTACHMENT 1 - TERMS AND CONDITIONS

**1. Payment.** The Buyer agrees to payment terms per Remarks section of Schedule. Late payment fees will be charged as follows: (a) one percent (1%) per month or part thereof will be charged for any payment that is more than 30 days late; (b) Payment should be made to:

Earth Networks  
Dept 0152, PO Box 120152  
Dallas, TX75312

**2. Inspection and Acceptance.** It is Buyer's responsibility to inspect and accept each unit at the time of delivery. Failure of Buyer to inspect and accept the unit at that time waives Buyer's rights to inspection and acceptance as a term of the contract. However, any actions under this clause shall not be deemed a waiver of any warranty contained herein.

**3. Web Services.** As part of this package purchase, Seller agrees to provide to Buyer: (1) complete access to the web service specified on the Schedule; (2) Provide adequate bandwidth and server capacity; (3) Provide toll-free technical support. The above services will be provided for as long as Seller maintains support for the applicable web service.

**4. Term and Termination.** The web services shall have an initial term as specified on the Schedule. Unless otherwise specified on the Schedule, the web services subscription shall automatically renew for successive 12 month terms, unless terminated by either party with at least 30 days written notice prior to the expiration of the then current term.

**5. Dispute.** The parties agree that any dispute, other than those relating to payment, due and owing from Buyer to Seller, arising out of or relating to this Agreement, shall be subject to binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The parties shall jointly request that an Arbitrator be appointed by the Alternative Dispute Resolution Administrator for the Circuit Court for Montgomery County, Maryland, to serve as the final arbitrator of any dispute. Any award of the Arbitrator shall be enforceable in the applicable court for enforcement. Both Buyer and Seller agree that the finding of the arbitrator is binding and no other remedy, including legal remedies, is permitted.

**6. Warranty.** The Seller warrants the hardware and software purchased by the Buyer against defects in workmanship and materials for a period of one (1) year from date of delivery under this contract. The Seller shall, at its sole option, either repair or replace defective items. Buyer is responsible to return of defective items to Seller by means specified by the Seller. The Buyer shall bear all shipping expenses. Packing of defective items for return is responsibility of Buyer. Damage due to natural causes (storms, lightning, flying debris, etc.) is not covered by this warranty. Damage resulting from Buyer negligence or mishandling of hardware and software is not covered by this warranty.

**7. Alterations and Attachments.** If Buyer makes alterations or attaches a device or any other item to the Earth Networks unit as sold and installed, the warranty is voided and Seller has no further obligation under the warranty.

**8. Disclaimer of Implied Warranties.** EXCEPT AS PROVIDED ABOVE, THE WEB SERVICES AND DATA DISPLAYED THEREIN ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. EXCEPT AS PROVIDED IN SECTION 6 ABOVE, SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, TO BUYER, OR TO ANY AUTHORIZED USER OR THIRD PARTY, INCLUDING ANY WARRANTIES OF QUALITY, ACCURACY, PERFORMANCE, COMPATABILITY, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. BUYER ACKNOWLEDGES THAT SELLER IS NOT RESPONSIBLE FOR THE ACCURACY OF ANY INFORMATION OR DATA CONTAINED IN THE SERVICES, AND SELLER SHALL NOT BE LIABLE FOR ANY LOSSES RESULTING FROM BUYER'S OR ANY AUTHORIZED USER'S RELIANCE ON ANY SUCH INFORMATION OR DATA UNDER ANY CIRCUMSTANCES.

**9. Lightning Disclaimer.** Experience has shown that the resolution, timeliness, and format in which lightning data are

presented within various displays and products, does not provide a total solution with regard to addressing concerns regarding the presence of convective activity and/or lightning and their potential impact on the safety of personnel and/or safeguarding of facilities, whether it be of immediate or short term concern. Interpretation and application of the data, as well as any comparative analysis and/or prognosis or similar activities done by any user, are done so solely at the user's risk and have not directly or indirectly been implied, condoned or recommended by Seller, and/or its data suppliers.

**10. Liability.** Buyer and subsequent users of hardware and software agree to waive any liability of Seller for damage caused by hardware and software installation and operation on any user premises.

**11. Limitations of Liability.** Except for damages caused by Seller's willful misconduct, recklessness, or gross negligence, the parties agree that to the extent permitted by applicable law, Seller limits or disclaims liability related to the manufacture, delivery, or use of the equipment, the software and/or supplies used in connection with the equipment or the provision of services for the equipment, as follows: (a) For direct damages, Seller liability is limited to the amounts paid by Buyer for the equipment, software, supplies or services giving rise to, or which are the subject of the claim, whether such claim alleges breach of contract, or tortious conduct including but not limited to negligence or any other theory; (b) Seller disclaims liability for indirect, incidental, special, or consequential damages (including but not limited to, loss of use, revenue, or profit) whether such claim alleges breach of contract, tortious conduct including but not limited to negligence, or any other theory.

**12. Data Rights.** Seller retains all rights to data and/or video images (hereinafter "data") generated by the Earth Networks system(s). Seller grants Buyer a limited license for use of such data, in connection with Buyer's internal business/educational purposes, but for no other purpose. Seller has exclusive rights for resale or to otherwise use data from the installed system(s). Buyer and users of hardware and software under this contract cannot provide access to third parties without the express written consent of Seller. Requests for access must be in writing to the Seller at the Seller's place of business. Seller grants Buyer a royalty free license to use and disseminate data generated by the Buyer's Earth Networks system for educational purposes, save and except that Buyer is expressly prohibited from disseminating data to media outlets (such as TV stations, cable channels, radio stations, newspapers, and magazines). Buyer is expressly prohibited from disseminating data from any other Earth Networks system.

**13. Access To Communication Line.** Buyer agrees to connect, at Buyer expense, the Earth Networks unit(s) to a dedicated, full-time Internet connection. Buyer further agrees to maintain the Earth Networks system in an operational mode at all times and to permit Seller authorized outside access to system data through the telecommunication line. Telecommunication line expense is solely the obligation of Buyer. Buyer agrees to follow all procedures outlined in the Operations Manual to ensure system access is maintained.

**14. Non-Waiver of Rights.** The failure of Buyer or Seller to insist upon strict performance of the terms and conditions of this Contract or to exercise any rights or remedies, shall not be construed as a waiver of its rights to assert any of same rights or to rely on any such terms or conditions at any time thereafter.

**15. Governing Law.** This Agreement shall be governed by the laws of the State of New Jersey.

**16. Attorney's Fees/Costs.** In any action by a party to enforce its rights hereunder, the non-prevailing party

shall pay the prevailing party's costs and expenses (including reasonable attorney's fees & other arbitration costs).

**17. Extraordinary Circumstances.** Except for obligations of payment, neither Seller nor the Buyer shall be liable for nonperformance caused by circumstances beyond their control, including but not limited to, work stoppages, floods, lightning and all other acts of God.

**18. Breach.** Either party may terminate this Agreement on breach by the other party of any material term or condition hereof 10 days after written notice is given to the breaching party by the non-breaching party if such breach is not cured.

**19. Order Fulfillment.** If this is a multiple unit order and/or includes promotional goods, credits, services, and the Buyer does not fully complete the terms of the Order agreement, Seller reserves the right to re-bill at standard prices or to retrieve the promotional items, unless the Buyer reconciles by acquiring another Earth Networks product eligible for such promotional items/discounts.

**20. Patent Indemnity.** Seller will defend the Buyer from, and pay for ultimate judgment or liability for infringement in the United States by equipment or operating system software ("Software") of any patent, trademark, trade secret, protected semiconductor chip mask work, or copyright if Buyer promptly notifies Seller in writing of any alleged infringement, allows Seller to defend, and cooperates with Seller. Seller is not responsible for any non-Earth Networks litigation expenses or settlements unless Earth Networks agrees to them in writing. Seller is not liable for any infringement due to equipment or software being made or modified by the Buyer or Buyer requested specification or designs, or being used or sold in combination with equipment, software, or supplies not provided by Seller. IMPORTANT: SELLER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY OF NON-INFRINGEMENT AND HAS NO OTHER LIABILITY FOR INFRINGEMENT OR ANY DAMAGES THEREFROM. To avoid an infringement (even if not alleged) Seller may, at its option, at no charge to Buyer, obtain a license to use, modify, or substitute an equivalent item for the infringing equipment or software.

**21. Purchase Orders.** Except for identifying goods, services or software ordered, prices and quantities, the terms and conditions contained or referenced in Buyer purchase order or other ordering documents shall be of no force or effect.

**22. Necessary Maintenance by Earth Networks.** Buyer will provide, upon reasonable notice by Seller, access to the system(s) for the purpose of supplying necessary maintenance and/or the installation of additional sensor equipment.

**23. Severability/Assignability.** If any provision of this Agreement shall be held to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall remain valid and enforceable. Neither party may assign this Agreement or any of its rights and obligations hereunder to any person, firm or corporation, without the prior written consent of the other, which consent shall not be unreasonably withheld, provided however that either party may assign this Agreement to a successor in interest as a result of a sale of all or substantially all of its stock or assets.

**24. Modification.** This contract shall not be varied in its terms or conditions by any oral Agreement or representation, but only by an instrument in writing of even or subsequent date thereto, properly executed by both the Seller and Buyer.

**25. Entire Agreement.** The terms and conditions contained or referenced in this Order Agreement are the complete and entire agreement between Seller and Buyer respecting the subject matter of this Agreement.

**EARTH NETWORKS PROFESSIONAL AGREEMENT**

12410 Milestone Center Drive,  
Suite 300, Germantown, MD 20876  
EARTH NETWORKS dba WEATHERBUG  
herein referred to as "Earth Networks"

**Customer Contact Information**

<b>Business Name:</b>	The City of North Myrtle Beach	<b>Business Address:</b>	1018 Second Avenue South North Myrtle Beach, SC 29582
<b>Contact Name:</b>	Matt Gibbons	<b>Contact Fax:</b>	
<b>Contact Phone:</b>	(843) 280-5574		

**Customer Billing Information (if different from above)**

<b>Business Name:</b>		<b>Business Address:</b>	
<b>Contact Name:</b>		<b>Contact Fax:</b>	
<b>Contact Phone:</b>			

**Earth Networks Contact Information**

<b>POC:</b>	Randy Smith	<b>Email Address:</b>	rsmith@earthnetworks.com
<b>Contact Phone:</b>	(330) 472-7621	<b>Contact Fax:</b>	(301) 258-5210

**Schedule of Products and Services**

Product Name	Notes	Quantity	Unit Price	Total Price
APC Power Saving Back-UPS 750		2	\$0.00	\$0.00
Informer		2	\$0.00	\$0.00
Installation: Horn		2	\$2,250.00	\$4,500.00
Lx Alerting Subscription		2	\$0.00	\$0.00
Outdoor Alerting System		2	\$6,500.00	\$13,000.00
			<b>Sub Total:</b>	\$17,500.00

Order #: 53161

part I



## EARTH NETWORKS PROFESSIONAL AGREEMENT

12410 Milestone Center Drive,  
Suite 300, Germantown, MD 20876  
EARTH NETWORKS dba WEATHERBUG  
herein referred to as "Earth Networks"



Customer Contact Information			
<b>Business Name:</b>	Savannah Hilton Head International Airport	<b>Business Address:</b>	400 Airways Ave Savannah, GA 31408
<b>Contact Name:</b>	Andy Singhas		
<b>Contact Phone:</b>	(912) 964-0514 x 3357	<b>Contact Fax:</b>	

Customer Billing Information (if different from above)			
<b>Business Name:</b>		<b>Business Address:</b>	
<b>Contact Name:</b>			
<b>Contact Phone:</b>		<b>Contact Fax:</b>	

Earth Networks Contact Information			
<b>POC:</b>	Randy Smith	<b>Email Address:</b>	rsmith@earthnetworks.com
<b>Contact Phone:</b>	(330) 472-7621	<b>Contact Fax:</b>	(301) 258-5210

Schedule of Products and Services				
Product Name	Notes	Quantity	Unit Price	Total Price
Outdoor Alerting System (OAS) with Installation	432	2	\$8,500.00	\$17,000.00
Initial Term of Contract:	433			
	436			
	916			
			<b>Sub Total:</b>	\$17,000.00

Date of Original Signed Terms and Conditions:  
**3/20/2014**

**Remarks:**

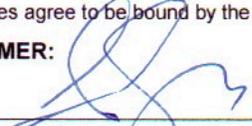
The buyer agrees to payment terms of Net 30 unless otherwise documented. Late payment fees will be charged as one percent (1%) per month or part thereof will be charged for any payment that is more than 30 days late. **StreamerRT and alert feeds provided at no charge in Year 1. The annual fee for these services following year one shall be \$xx/year.**

Installation and/or maintenance costs quoted above are valid for standard installations only. Any installation or maintenance work that requires non-standard equipment, materials, or regulatory expense may be subject to an additional charge. Furthermore, customer is responsible for providing all communication and electrical infrastructure. This quotation identifies the quantity of OAS units estimated for adequate coverage and has been agreed to by both parties as per (name and date of summary document). If additional units are required or desired after installation, they can be added for \$x per unit installed.

Please allow six to eight weeks for delivery of hardware.

The parties agree to be bound by the Earth Networks terms and conditions.

**CUSTOMER:**

By:   
Name: Andy Singhas  
Title: Sc. Operations Manager  
Date: 3/13/15

**EARTH NETWORKS**

By: Randy Smith  
Name: Randy Smith  
Title: Homeland Security Specialist  
Date: 3/13/2015

Please fax all pages of the signed agreement directly to Earth Networks at (301) 258-5210

## PURCHASE ORDER

ORDERED BY:

**Savannah Airport Commission**400 Airways Avenue  
Savannah, GA 31408  
USAVoice: **912-966-7967**Fax: **912-966-7968**

Purchase Order No.

**13538**

Date

**3/13/15**

To:	5322	Ship To:	Bill To:
EARTH NETWORKS 12410 MILESTONE CENTER DRIVE SUITE 300 / DBA WEATHERBUG GERMANTOWN, MD 20876		Savannah Airport Operations 640 Gulfstream Road Savannah, GA 31408	Savannah Airport Commission Accounts Payable 400 Airways Avenue Savannah, GA 31408
Fax: Phone:		Fax: 912-966-7968 Phone: 912-966-7967	Or Email Invoice to: Lcorsivo@savannahairport.com Phone: 912-964-0514

Good Thru	Ship Via	FOB	Terms
4/12/15	Best Way	Destination	Net 30 Days

Quantity	Item	Description	Unit Cost	Amount
2.00		Secondary Horn System Quoted to B.L. on 2.25.15 PB Req 2015-36 Request approval to purchase 2 secondary horns systems from Earth Networks in the amount of \$17,000.00. The total cost to include equipment and installation of horns along concourse. This is a minor capital item budgeted for 2015 in the amount of \$17,000.00. This is a proprietary addition to the Weatherbug lightning detection system purchased last year. Earth Networks is the sole source for this purchase. 3.13.2015 KM	8,500.00	17,000.00
			<b>TOTAL</b>	<b>\$17,000.00</b>

Authorized Signature

Kisha Mitchell

To ensure payment within 30 days, invoices should be forwarded to Accounts Payable. See billing information above.

Order #: 53159  
part II**EARTH NETWORKS PROFESSIONAL AGREEMENT**

12410 Milestone Center Drive,  
Suite 300, Germantown, MD 20876  
EARTH NETWORKS dba WEATHERBUG  
herein referred to as "Earth Networks"



Customer Contact Information				
<b>Business Name:</b>	Savannah Hilton Head International Airport	<b>Business Address:</b>	400 Airways Ave Savannah, GA 31408	
<b>Contact Name:</b>	Andy Singhas			
<b>Contact Phone:</b>	(912) 964-0514 x 3357	<b>Contact Fax:</b>		
Customer Billing Information (if different from above)				
<b>Business Name:</b>		<b>Business Address:</b>		
<b>Contact Name:</b>				
<b>Contact Phone:</b>		<b>Contact Fax:</b>		
Earth Networks Contact Information				
<b>POC:</b>	Randy Smith	<b>Email Address:</b>	rsmith@earthnetworks.com	
<b>Contact Phone:</b>	(330) 472-7621	<b>Contact Fax:</b>	(301) 258-5210	
Schedule of Products and Services				
Product Name	Notes	Quantity	Unit Price	Total Price
High Definition PTX Camera System with Installation	5520 936	1	\$9,250.00	\$9,250.00
<b>Sub Total:</b>				\$9,250.00

Date of Original Signed Terms and Conditions:  
3/20/2015

**Remarks:**

The buyer agrees to payment terms of Net 30 unless otherwise documented. Late payment fees will be charged as one percent (1%) per month or part thereof will be charged for any payment that is more than 30 days late. **StreamerRT and alert feeds provided at no charge in Year 1. The annual fee for these services following year one shall be \$xx/year.**

Installation and/or maintenance costs quoted above are valid for standard installations only. Any installation or maintenance work that requires non-standard equipment, materials, or regulatory expense may be subject to an additional charge. Furthermore, customer is responsible for providing all communication and electrical infrastructure

Please allow six to eight weeks for delivery of hardware.

The parties agree to be bound by the Earth Networks terms and conditions.

**CUSTOMER:**

By: [Signature]  
Name: Andy Singhas  
Title: Sr. Operations Manager  
Date: 3/13/15

**EARTH NETWORKS**

By: Randy Smith  
Name: Randy Smith  
Title: Homeland Security Specialist  
Date: 3/13/2015

Please fax all pages of the signed agreement directly to Earth Networks at (301) 258-5210

## PURCHASE ORDER

ORDERED BY:

**Savannah Airport Commission**400 Airways Avenue  
Savannah, GA 31408  
USAVoice: **912-966-7967**Fax: **912-966-7968**

Purchase Order No.

**13539**

Date

**3/13/15**

<b>To:</b>	<b>5322</b>	<b>Ship To:</b>	<b>Bill To:</b>
EARTH NETWORKS 12410 MILESTONE CENTER DRIVE SUITE 300 / DBA WEATHERBUG GERMANTOWN, MD 20876		Savannah Airport Operations 640 Gulfstream Road Savannah, GA 31408	
Fax: Phone:		Fax: 912-966-7968 Phone: 912-966-7967	
		Savannah Airport Commission Accounts Payable 400 Airways Avenue Savannah, GA 31408	
		Or Email Invoice to: Lcorsivo@savannahairport.com	
		Phone: 912-964-0514	

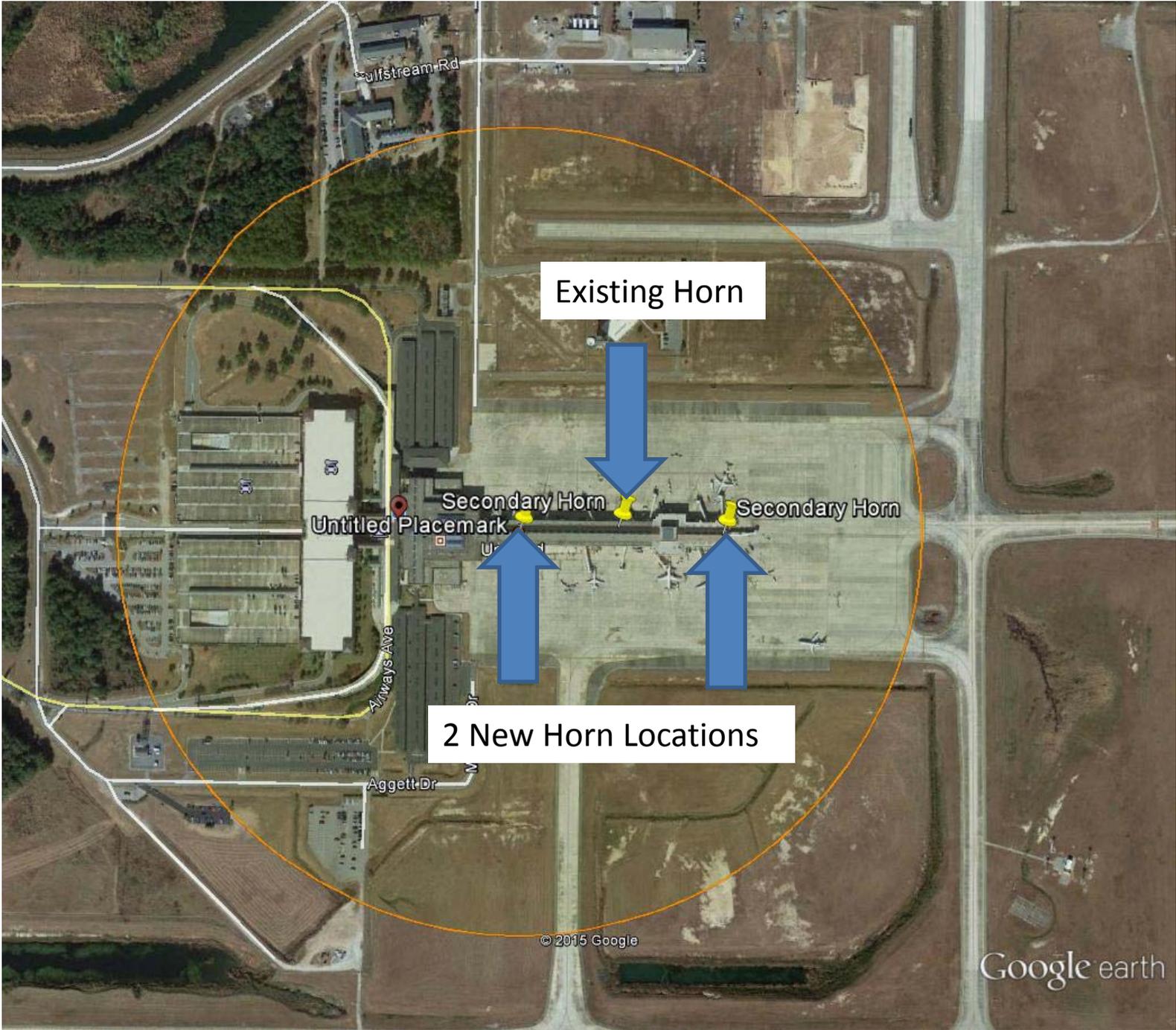
<b>Good Thru</b>	<b>Ship Via</b>	<b>FOB</b>	<b>Terms</b>
4/12/15	Best Way	Destination	Net 30 Days

Quantity	Item	Description	Unit Cost	Amount
1.00		HD PTZ Camera System PB REQ 2015-37 Request approval to purchase 1 HD PTZ Camera system from Earth Networks in the amount of \$9,250.00. The total cost to include equipment and installation of camera on concourse. This is a minor capital item budgeted for 2015 in the amount of \$17,000.00. This is a proprietary addition to the Weatherbug lightning detection system purchased last year. Earth Networks is the sole source for this purchase. 3.13.2015 KM	9,250.00	9,250.00
			<b>TOTAL</b>	<b>\$9,250.00</b>

Authorized Signature

Kisha Mitchell

To ensure payment within 30 days, invoices should be forwarded to Accounts Payable. See billing information above.



Existing Horn

Untitled Placemark  
Secondary Horn  
Secondary Horn

2 New Horn Locations

© 2015 Google

Google earth

Quote: 54903



### EARTH NETWORKS PROFESSIONAL AGREEMENT

12410 Milestone Center Drive,  
Suite 300, Germantown, MD 20876  
EARTH NETWORKS dba WEATHERBUG  
herein referred to as "Earth Networks"



Customer Contact Information			
Business Name:	Volusia County EMA	Business Address:	3825 Tiger Bay Rd Daytona Beach, FL 32124
Contact Name:	Larry LaHue	Contact Fax:	
Contact Phone:	(386) 254-1500 hit 2 then 1		

Customer Billing Information (if different from above)			
Business Name:		Business Address:	
Contact Name:		Contact Fax:	
Contact Phone:			

Earth Networks Contact Information			
POC:	Randy Smith	Email Address:	rsmith@earthnetworks.com
Contact Phone:	(330) 472-7621	Contact Fax:	(301) 258-5210

Schedule of Products and Services				
Product Name	Notes	Quantity	Unit Price	Total Price
Outdoor Alerting System with Installation	Delivered by 6/30/2015	2	\$8,750.00	\$17,500.00

Initial Term of Contract: One year	436	<b>Sub Total:</b>	\$17,500.00
	433		

Date of Original Signed Terms and Conditions: 7/29/2009 432

#### Remarks:

The buyer agrees to payment terms of Net 45 unless otherwise documented. Late payment fees will be charged as one percent (1%) per month in accordance with Florida Statutes, Part VI. Alert feeds provided at no charge in Year 1. The annual fee for these services following year one shall be \$500/year.

Installation and/or maintenance costs quoted above are valid for standard installations only. Any installation or maintenance work that requires non-standard equipment, materials, or regulatory expense may be subject to an additional charge. Furthermore, customer is responsible for providing all communication and electrical infrastructure. This quotation identifies the quantity of OAS units estimated for adequate coverage and has been agreed to by both parties as per (name and date of summary document). If additional units are required or desired after installation, they can be added for \$8,750 per unit installed.

Delivered by 6/30/2015

The County is tax exempt. Tax exempt certificate will be provided.

The parties agree to be bound by the County and Earth Networks terms and conditions. County terms and conditions shall prevail.

**CUSTOMER**

By:   
Name: Jeaniene Jennings, CCPO, CPPB  
Title: Purchasing and Contracts Director  
Date: 6/15/15

**EARTH NETWORKS**

By: Randy Smith  
Name: Randy Smith  
Title: Homeland Security Specialist  
Date: 6/12/2015

Please fax all pages of the signed agreement directly to Earth Networks at (301) 258-5210

## Purchase Order (PO) or Master Agreement (MA) Terms and Conditions

Providing any good or service constitutes acceptance of this entire PO or MA without exception

**Delivery.** Title and risk of loss shall pass when items have been received, inspected, and accepted by County of Volusia ("County"). All associated shipping, insurance, and other related costs shall be borne by Provider.

**Discontinued.** Provider shall give County 30 (thirty) days advance notice of a discontinued item(s) so that County can purchase additional quantities of discontinued item(s). County must give written approval of replacement(s) if they exceed previous price or fail to meet quality, form, fit, or function of the discontinued item. Time is of the essence regarding Performance of Services and this PO or MA can be terminated by the County for convenience, non-appropriation of funds, or non-performance.

**Disputes.** If such dispute arises under this PO or MA and is not resolved informally by the parties within five (5) business days, the party bringing a claim ("Disputing Party") shall deliver to the first level representative of the other party a written statement ("Dispute Notice") describing the dispute. If the respective representatives cannot resolve the dispute within ten (10) days, the dispute shall be escalated through two higher levels of management. If the dispute has not been resolved within 25 (twenty-five) calendar days after delivery of the Disputing Party's notice, either party may give written notice to the other party declaring the resolution process terminated and pursue other legal recourse or initiate formal non-binding mediation before a single mediator, which shall be completed within 30 (thirty) days of initiation, in accordance with rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700, et seq., of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize such termination remedies and commence litigation in a court of competent jurisdiction.

**Governing Law/Jurisdiction/Venue.** This PO or MA shall be governed by the laws of the State of Florida and venue for any litigation arising from this PO or MA shall be in the County of Volusia, Florida, and any trial shall be non-jury. Each party agrees to bear its own costs and attorneys' fees relating to any dispute arising under this PO or MA. Provider shall comply with all applicable laws and regulations.

**Insurance.** For goods and services delivered or performed by Provider on County premises, Provider certifies it maintains comprehensive general liability insurance and auto insurance in the amounts identified in the solicitation and/or contract and any amendments thereto pertaining to this PO or MA, or from an A.M. Best "A -" or better rated insurance firm authorized by the State of Florida Insurance Commissioner. The County reserves the right to require the "County of Volusia" be named as additional insured for projects when deemed necessary. For services performed off County premises and goods delivered by third party carriers, the Provider shall use such carriers that maintain such insurance coverage as set forth above.

**Intellectual Property.** Provider agrees to protect, defend, indemnify, and save the County, its agents, officials, including elected officials, and employees of the County harmless from and against any and all claims, demands, actions, and causes of action which may arise asserting that a copyright, trademark, trade secret, or patent ("Intellectual Property"), as provided under this PO or MA, infringes or misappropriates any third party's Intellectual Property. If Provider must pay a third party any license, royalty, or other such usage fee in order to deliver the item(s) under this PO or MA, such third party and usage fee must be specified in the Provider's offer to sell to the County.

**Indemnification.** The Provider shall indemnify, defend, and hold harmless the County and its agents, officers, and employees, from and against all claims, damages, losses, and expenses, including, but not limited to, attorney's fees arising out of or resulting from the provision of goods and/or services pursuant to the Agreement and/or this PO or MA, provided that the claim, damage, loss, and expense is caused in whole or in part by any negligent act or omission of the Provider, or anyone directly or indirectly employed by Provider or anyone for whose acts the Provider may be liable hereunder, except the Provider will not be required to indemnify and hold the County harmless if such claim, damage, loss, and expense is the result of the sole negligence of the County or of anyone directly or indirectly employed by the County or anyone for whose acts the County may be liable.

**Modification & Assignment.** County may unilaterally change, at no additional cost, the quantity and receiving point within the County for items not yet shipped. All other items must be mutually agreed upon in writing. County is not required to pay for defective items, back-orders, late deliveries, those quantities exceeding the PO or MA quantity, or items shipped at a higher price than stated on the PO or MA. Neither this PO or MA nor any interest herein shall be assigned, transferred, or encumbered by Provider except as authorized in writing by the County.

**Notices.** All notices given by one party to the other party under this PO or MA shall be delivered to the receiving party's address set forth on this PO either by hand, qualified courier, or e-mail and shall be deemed received the day after it is transmitted. For the County, it shall be addressed to the Purchasing and Contracts Department, 123 West Indiana Avenue, 3rd Floor, DeLand, Florida, 32720 or purchasing@volusia.org.

**No Waiver.** Except as expressly set forth herein, no failure or delay on the part of County in exercising any right, power, or remedy hereunder shall operate as or be deemed a waiver thereof, nor shall any single or partial exercise of any right, power, or remedy preclude any other or further exercise thereof, or the exercise of any other right, power, or remedy.

**Order of Precedence.** In the event of conflict between this PO or a Price Agreement (PA), the originating Volusia County contract and amendments thereto shall be controlling. This control shall pertain to all specifications and scopes of work included in the originating Volusia County contract and any amendments thereto. Payment. Except for construction services, which shall be paid pursuant to the Florida Prompt Payment Act, County shall pay Provider within 45 (forty-five) days after receipt of an accurate and undisputed invoice, unless the County accepts a prompt payment discount from Provider and the goods or services are not defective. Invoice, packing slip, delivery receipt, order acknowledgement, and correspondence shall clearly indicate the PO or MA number. Any additional or different terms and conditions on Provider's documents shall be considered null and void. The County may deduct amounts it is due from Provider's payment or not pay disputed invoices until such dispute is resolved. Nothing in this PO or MA shall create any obligation on the part of the County to pay directly to any subcontractor of Provider any monies due to such subcontractor or claims of such subcontractor for amounts owed by Provider to subcontractor for goods or services provided under this PO or MA.

**Sovereign Immunity.** The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of the Agreement, Master Agreement, and/or this Purchase Order to the contrary, nothing in any such documents shall be deemed as a waiver of immunity or the limitations of liability of the County beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature, and the cap on the amount and liability of the County for damages regardless of the number or nature of claims in tort, equity, or contract shall not exceed the dollar amount set by the legislature for tort. Nothing in the Agreement, Master Agreement, or this Purchase Order shall inure to the benefit of any third party for the purpose of allowing any claim against the County, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

**Taxes.** County is tax exempt from Manufacturers' Federal Excise Tax (Exemption# 49-6000-885) and Florida sales tax (Exemption# 85-8012622393C-9). Certificates are available at [www.volusia.org/purchasing](http://www.volusia.org/purchasing). After accessing the foregoing website, select, "Doing Business with Volusia County" and "Consumer Certificate of Tax Exemption" from the available menu screens to see a copy of the certificates. UCC. In addition to any rights or remedies contained in this P.O., each party shall have rights, duties, and remedies available through the Uniform Commercial Code (UCC).

**Warranty.** Provider warrants that all Work or Services performed under this PO or MA shall be performed in a good and competent workmanlike manner to the satisfaction of the County, and materials shall be of good quality (unless otherwise stated on PO or MA), and free from defects and pursuant to specifications and requirements of the contract related to this PO or MA. Provider warrants merchantability of all goods or services and that they are fit for the ordinary purposes they are intended to serve.



**PURCHASE ORDER**

NO. PO 530 0616150000000001331 - 1

Reference PO number to ensure prompt payment

Date Ordered: 06/16/15

<b>Vendor contact:</b> <b>Name:</b> RANDY SMITH <b>Phone:</b> 330-472-7621 <b>Ext:</b> <b>E-mail:</b> rsmith@earthnetworks.com		<b>County contact:</b> <b>Name:</b> LAWRENCE LAHUE <b>Phone:</b> 386-254-1500 <b>Ext:</b> 1315 <b>E-mail:</b> LLaHue@volusia.org		<b>Bill To:</b> <b>County of Volusia</b> EMERGENCY OPERATIONS CTR 3825 TIGER BAY RD., STE 102 DAYTONA BEACH, FL 32124	
<b>Vendor Name:</b> EARTH NETWORKS INC WEATHER BUG 12410 MILESTONE CENTER DRIVE SUITE 300 GERMANTOWN, MD 20878		<b>Vendor No.</b> 05090900020		<b>Ship To:</b> EMERGENCY MGMT SRVCS 3825 TIGER BAY RD., STE 102 DAYTONA BEACH, FL 32124	
<b>Special Instructions:</b>		<b>Payment Terms:</b> Net 45 Days, FOB Dest., Freight Allowed  <b>Purchasing Analyst:</b> TABATHA FREEDMAN <b>Phone:</b> 386-822-5788 <b>Ext:</b> <b>E-mail:</b> TFreedman@volusia.org			

Line Item	Quantity	Unit	Description	Unit Price	Total Price
1	2.00	EA	Outdoor alerting systems with installation and first year service fee, to be delivered and installed by 6/30/15. Location to be coordinated with Larry LaHue. Per attached quote #54903 dated 6/11/15. Service dates 6/30/15-6/29/18.	8,750.00000	17,500.00

**TOTAL: \$ 17,500.00**

Jeaniene Jennings CPPB  
 Purchasing & Contracts Director

County of Volusia  
 Sales Tax Exemption Number  
 85-8012622393C-9

This Purchase Order authorizes delivery of the above listed items or services. If a solicitation number is referenced then the terms and conditions of said solicitation become part of this Purchase Order. Deviation from prices stated herein is not permitted without a signed corrected Purchase Order or Change Order.

If vendor terms and conditions conflict with County of Volusia Terms and Conditions, the County's Terms and Conditions prevail. See reverse side for terms and conditions.