

# **STATEMENT OF WORK BETWEEN COBAN TECHNOLOGIES, INC. and CITY OF DURHAM**

## **1.0 INTRODUCTION**

This Statement of Work ("SOW") has been made and entered into by and between COBAN Technologies, Inc. ("COBAN"), a corporation organized and existing under the laws of Texas, and CITY OF DURHAM ("CLIENT") for the purchase of the COBAN Digital In-Car Video Solution ("DICVS")(see Appendix 1), and its supporting information and services.

### **1.1 Purpose and Intent**

CLIENT states, and COBAN understands and agrees, that CLIENT's purpose and intent for entering into this SOW is for CLIENT to obtain from COBAN deliverables, which used solely in conjunction with CLIENT's existing systems and equipment, and systems and equipment which CLIENT specifically agrees to purchase or provide pursuant to the terms of this SOW, will reliably produce audio/video, of a quality that CLIENT reasonably believes it may use for its administrative and evidentiary purposes, which CLIENT can digitally upload wirelessly, store, search, retrieve, download and copy.

### **1.2 Entire Agreement**

The following attachments are made a part of this SOW:

- Appendix I Digital In-Car Video Solution Scheme consisting of 4 pages
- Appendix II Server and Storage Specifications consisting of 2 pages
- Appendix III COBAN Price Quote consisting of 4 pages
- Appendix IV Deliverable Acceptance Form consisting of 2 pages
- Appendix V Warranty consisting of 4 pages
- Appendix VI Software License Agreements and Warranties/Support consisting of 3 pages

In case of a conflict between an attachment and the text of this SOW excluding the attachment, the text of this SOW shall control.

This SOW contains the entire agreement between the parties. There are no promises, agreements, conditions, inducements, warranties or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this SOW.

### **1.3 Complete Work Without Extra Cost**

Except to the extent otherwise specifically stated in this contract, COBAN shall obtain and provide, without additional cost to CLIENT, all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform its obligations pursuant to this SOW.

### **1.4 Principles of Interpretation and Definitions**

In this SOW, unless the context requires otherwise:

- References to statutes or regulations include all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation.
- References to this SOW include all amendments to it.
- The term "business day," whether or not capitalized, means Monday through Friday from 8:00 a.m. – 5:00 p.m. Central Standard Time excluding federal holidays.
- The term COBAN-ASC means a COBAN Authorized Service Center physically located within 30 miles of Durham Police Headquarters, 505 W. Chapel Hill Street, Durham, North Carolina and which provides Work pursuant to this SOW no less than Monday – Friday from 8:00 a.m. - 5:00 p.m. Eastern Standard Time.
- The term COBAN Software means all COBAN manufactured, created or designed software, including but not limited to COBAN Digital Video Management Solution software, COBAN Digital

Video Management Solution Enterprise software, COBAN Digital Video Management Solution Client software, COBAN Backup Utility, and COBAN Mobile Start software, as well as third party software not otherwise licensed by a specific end user license agreement, delivered or provided to CLIENT by COBAN pursuant to this SOW. COBAN Software also includes any associated media whether printed or electronic, tech support kits for, and updates or upgrades to, the aforementioned software.

- The phrase "correct any deficiencies," means ensuring that all deliverables work in conjunction with each other as well as with CLIENT's existing equipment, network and systems to provide to CLIENT a digital in-car video solution which fulfills CLIENT's purpose and intent and operates in accordance with Appendix I and all other requirements of this SOW.
- The term "Day," whether or not capitalized, means calendar day.
- The term "Person," whether or not capitalized, includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities.
- The term "Product," whether or not capitalized, means COBAN manufactured TopCam Gen 2 Systems, including all standard and optional components, parts, and accessories of the TopCam Gen 2 Systems identified in Section 2.2.
- The terms "Statement of Work", "SOW," "contract" and "agreement", whether or not capitalized, are synonymous and refer to this instrument.
- The term "System Record Triggers," whether or not capitalized, means any device with a digital signature that automatically initiates a recording by a TopCam Gen 2 System.
- The term "Work," whether or not capitalized, means all of the services that COBAN is required to perform pursuant to this agreement and all of COBAN's duties that arise out of this agreement.

### 1.5 Project Location

Work shall be performed at the following locations or as otherwise mutually agreed upon by the parties to this SOW:

Durham Police Headquarters  
505 W. Chapel Hill Street  
Durham, NC 27701

City Hall  
101 City Hall Plaza  
Durham, NC 27701

Durham Police Department Sub-Station 2  
5285 N. Roxboro Road  
Durham, NC 27704

Piedmont Communications  
1519 Camden Avenue  
Durham, NC 27704

### 1.6 Notice

Except to the extent otherwise specifically stated in this SOW or as agreed upon by the parties, all notices and other communications required by this SOW shall be given either by personal delivery, fax, electronic mail, or certified United States mail, return receipt requested, directed to the following project managers:

#### **CLIENT Project Manager**

Kathryn Salyers  
Business Analyst  
505 W. Chapel Hill Street  
Durham, NC 27701  
Telephone: (919)560-4304 ext. 29144

#### **COBAN Project Manager**

Cindy Chang  
Project Services  
12503 Exchange Drive, Suite 536  
Stafford, TX 77477  
Telephone: (281) 277-8288 ext. 160

Fax: (919) 560-4938  
Email: [Kathryn.Salyers@durhamnc.gov](mailto:Kathryn.Salyers@durhamnc.gov)

Fax: (281) 277-8256  
Email: [cindyc@cobantech.com](mailto:cindyc@cobantech.com)

**CLIENT Technical Service and Support**

Officer Mark Sherman  
Technical Project Officer  
505 W. Chapel Hill Street  
Durham, NC 27701  
Telephone: (919) 560-4304 ext. 29187  
Fax: (919) 560-4938  
Email: [Mark.Sherman@durhamnc.gov](mailto:Mark.Sherman@durhamnc.gov)

**COBAN Technical Service and Support**

Chris Patten  
Field Application Engineer  
12503 Exchange Drive, Suite 536  
Stafford, TX 77477  
Telephone: (281) 881-6387  
Fax: (281) 277-8256  
Email: [chriscp@cobantech.com](mailto:chriscp@cobantech.com)

**CLIENT Pricing and Billing Contact:**

Deborah Chelette  
Fiscal Manager  
505 W. Chapel Hill Street  
Durham, NC 27701  
Telephone (919) 560-4322 ext. 29141  
Fax: (919) 560-4971  
Email: [Deborah.Chelette@durhamnc.gov](mailto:Deborah.Chelette@durhamnc.gov)

**Invoices shall be sent to:**  
ACCOUNTING SERVICES DIVISION  
CITY OF DURHAM  
101 City Hall Plaza (ANNEX)  
Durham, NC 27701

**Payments shall be sent to:**  
COBAN Technologies, Inc.  
Accounts Receivable  
12503 Exchange Drive, Suite 536  
Stafford, TX 77477

A change of person, address, telephone number, fax number, or email may be made by either party by written notice to the other party. Any notice or other communication under this SOW shall be deemed given at the time of actual delivery, if personally delivered or sent by fax or email. If the notice or other communication is sent by United States mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the United States Postal Service or upon actual delivery, whichever first occurs.

**1.7 Performance of Work by CLIENT**

If COBAN fails to perform the Work in accordance with this SOW, CLIENT may, in its discretion, perform or cause to be performed some or all of the Work, and in doing so shall not waive any of the CLIENT's rights and remedies. Before doing so, CLIENT shall give COBAN 30 days notice of its intention. COBAN shall reimburse CLIENT for additional costs incurred by the CLIENT in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

**2.0 DELIVERABLES**

COBAN will provide to CLIENT the following deliverables:

**2.1 Manuals, Guides and Presentations**

Within seven (7) days of receiving this fully executed SOW, COBAN will deliver to CLIENT's Technical Service and Support Contact via email the following documents. Documents may not exceed 10M per email. Unless otherwise agreed upon by COBAN, CLIENT may print and reproduce said documents for use by its employees only.

- Detailed Equipment List (PDF)
- Digital Video Management Solution User's Guide (PDF)
- In-Car Hardware Guide (PDF)
- Mobile Recorder User's Guide (PDF)
- Mobile Recorder Quick Reference (PDF)

- In-Car Installation Manual and relevant addendum(s) (PDF)
- Digital Video Management Solution Training Presentation (PPT)
- TopCam Training Presentation (PPT)

## **2.2 In-Car Hardware**

- 30 TopCam Gen 2 Systems, each system consisting of :
  - 6.4" touch screen monitor
  - Sony Digital CCD camera
  - 40 GB removable mobile hard drive with USB 2.0 interface
  - Wireless microphone receiver and transmitter (each including Li-ion battery 110mA, leather pouch, car charger cable, and wall charger cable)
  - 12 ft. in-car covert microphone
- 30 GPS
- 30 Detached wide angle IR camera
- 30 T2 standard mounting
- 30 CPU module (1.6GHz Intel P-Mobile, 512 SDRAM, 40G Internal HDD) each with:
  - Smart power module
  - Internal 802.11N wireless card
  - Microsoft Windows XP PRO
- 30 Piggyback CPU and power supply mount
- 10 Additional 40 GB removable mobile hard drives with USB 2.0 interface
- 2 Transmitter package B
- 60 2.4 Ghz and 4.9 Ghz 802.11N antennas

## **2.3 In-Car Software**

- 30 COBAN Digital Video Management Solution software licenses
- 1 Tech support kit

## **2.4 Back Office Hardware**

- Main Server 42TB
  - 1 – 18TB server with internal storage as specified in Appendix II
  - 1 – 24TB storage as specified in Appendix II
- Sub-server
  - 1 – 2.79TB sub-server as specified in Appendix II
- 2 Single hard drive upload cradles
- SAN backup storage 42TB
  - 1 – 22TB storage as specified in Appendix II
  - 1 – 20TB storage as specified in Appendix II
- 1 Multi hard drive upload cradle
- 1 APC 5000

## **2.5 Back Office Software**

- 2 COBAN Digital Video Management Solution Enterprise software licenses
- 4 MPEG2 Codec players
- 1 COBAN Backup Utility

## **2.6 Wireless Upload System Hardware**

- 5 Cisco 1262N controller based wireless access points with 3 year Smartnet 8x5 NBD
- 1 Cisco 5508 WLC (Wireless LAN Controller) with 3 year Smartnet 8x5 NBD
- 1 Cisco ESW500 Small Business Pro 8 port 10/100/1000 POE switch with 3 year Small Business Pro Support
- 4 1000 Base-T SFPs

- Dell Power Edge R210
  - 4G memory
  - 2 160G ATA drives
- 5 Terrawave 2.4/5GHz 6 pack MIMO patch
- 30 Terrawave lightning arrestor 0-6Ghz
- 30 Terrawave LMR-200 3 ft extension

## **2.7 Wireless Upload System Software**

- 1 Windows Server 2008
- 50 WCS (Wireless Control System) Base License for APs with 3 year application support

## **2.8 Wireless Upload System Cabling**

- 2000 ft SYSTIMAX CAT6 cable
- 5 SYSTIMAX box 1 port
- 10 SYSTIMAX CAT6 inserts
- 5 SYSTIMAX 3 ft giga speed patch cords
- 8 SYSTIMAX 7 ft giga speed patch cords
- 1 SYSTIMAX 24-port 1U patch panel

## **2.9 Existing Mobile Video Camera System De-Installation**

On such dates and times mutually agreed upon by the parties, the CLIENT will deliver up to thirty (30) vehicles to a COBAN-ASC which will remove from said vehicles all components of existing mobile video camera systems. Unless otherwise agreed upon by the CLIENT, removal of existing mobile video camera systems will be completed from each vehicle, and said vehicle will be available for pick-up by the CLIENT if CLIENT so chooses, within 24 hours after the agreed upon date and time of delivery of the vehicle to the COBAN-ASC. Major components will be salvaged by COBAN-ASC for auction by the CLIENT. Wires and cables are considered expendable and will not be salvaged. Salvaged components will be packaged by and stored at COBAN-ASC. Within 3 business days of receiving notice from the COBAN-ASC, CLIENT shall retrieve all packaged salvaged components.

COBAN shall be liable for any and all damages caused to CLIENTS' vehicles and existing systems and equipment during the removal process excluding actual salvaged components. Repair or replacement of damaged property shall be at the discretion and per the specifications of the CLIENT.

## **2.10 In-Car Hardware/Software Delivery and Installation**

On such dates and times mutually agreed upon by the parties, the CLIENT will deliver up to thirty (30) vehicles to a COBAN-ASC which will install and configure in each vehicle, in accordance with the specifications detailed in the COBAN In-Car Installation Manual and its relevant addendum(s), the following in-car hardware: a TopCam Gen 2 System; GPS; detached wide angle IR camera; T2 standard mounting; CPU module installed with COBAN Digital Video Management Solution software; piggyback CPU and power supply mount; and two (2) antennas (the aforementioned deliverables are more fully described in Section 2.2 In-Car Hardware). Applicable in-car hardware will be installed and configured for light bar and other system record triggers as defined by CLIENT. Thirteen (13) of the aforementioned vehicles will additionally be installed and configured with CLIENT's radar integration boxes, cables and software.

If a specified vehicle is unavailable on the date and time agreed upon by the parties, CLIENT will provide a similar vehicle for the installation process. Delays due to a vehicle, or substitute vehicle, not being available at agreed upon dates and times may result in additional fees to the CLIENT. If the COBAN-ASC determines that a vehicle is not properly prepared for installation, such as a battery not being properly charged or not properly holding a charge, the issue shall be reported immediately to the CLIENT for resolution and a date and time for future installation shall be agreed upon by the parties. Upon completion of installation and configuration, at the COBAN-ASC, COBAN will systematically test all installed and configured in-car hardware and software to ensure that ALL functions of the hardware and software are fully operational and

that any deficiencies are corrected. Unless otherwise agreed upon by the CLIENT, installation, configuration, testing, and the correction of any deficiencies will be completed in each vehicle accepted for installation, and said vehicle will be available for pick-up by the CLIENT if CLIENT so chooses, within 48 hours after the agreed upon date and time of delivery of the vehicle to the COBAN-ASC.

COBAN shall be liable for any and all damages caused to CLIENTS' vehicles and existing systems and equipment during the installation and configuration process. Repair or replacement of damaged property shall be at the discretion and per the specifications of the CLIENT.

Within 30 days of the date on which CLIENT retrieves CLIENT's vehicle from the COBAN-ASC, said vehicle having been installed and configured with tested and fully and properly operational in-car hardware and software identified above, CLIENT shall submit to COBAN a Deliverable Acceptance Form (Appendix IV) indicating acceptance or denial of the installed and configured in-car hardware and software and its installation and configuration process. Acceptance or denial of said deliverables shall be in accordance with and subject to the provisions of Section 6.1 below.

Within seven (7) days of receiving a request from CLIENT, COBAN will deliver to CLIENT's Technical Contact, in the amounts requested by CLIENT, up to: ten (10) additional 40 GB removable mobile hard drives with USB 2.0 interface; two (2) Transmitters package B; and one (1) Tech support kit.

## **2.11 Back Office Hardware/Software Delivery and Installation**

### **2.11.1 Work Stations**

In addition to a wireless upload system, CLIENT will be utilizing a removable hard drive upload solution which means that recorded video may be uploaded from the TopCam Gen 2 Systems to work stations via removable hard drives and docking cradles. Videos uploaded in this manner will remain on a sub-server until CLIENT schedules a video push utility sending the videos to the main server.

CLIENT will provide work stations for the aforementioned purpose which meet or exceed the following minimum requirements:

- OS which is Windows XP Professional with SP2 or above
- Core 2 DUO 2.2GHz
- 2GB RAM
- 64 MB graphics card
- USB 2.0 port for upload cradle (for Mobile HDD upload and download)
- Windows Media Player 9.0
- Active Ethernet Connection 100 base-T
- MPEG2 Codec installed

The specifications listed above only apply to work stations that the CLIENT will use to upload, view and export recorded videos to and from the storage array. Work stations that the CLIENT will use only to view videos and run reports from the Digital Video Management Solution software need only Windows XP Pro, MPEG II Codec, and have an active Ethernet connection.

On such date(s) and times as mutually agreed upon by the parties, COBAN will deliver to CLIENT two (2) single hard drive upload cradles and one (1) multi hard drive upload cradle, and using such deliverables will install and configure for Client four (4) work stations. Each installation and configuration shall include a MPEG2 Codec player which will allow CLIENT to view video at each workstation. COBAN will test the connectivity and operability from the upload cradles to the sub-server and correct any deficiencies. A representative from CLIENT's Information Technology Services Division must be present during said installation, configuration, and testing.

### **2.11.2 Sub-Server**

On such date(s) and times as mutually agreed upon by the parties, COBAN will deliver to CLIENT, and install and configure into CLIENT's existing network, one (1) 2.79TB sub-server installed with COBAN Digital Video Management Solution Enterprise software. COBAN will test the connectivity and operability from the sub-server to the main server and correct any deficiencies. Prior to installation and configuration of the sub-server, CLIENT agrees to have upgraded its existing 10 Mbps pipeline to 100Mbps to achieve optimal transfer rate between the sub-server and the main server. A representative from CLIENT's Information Technology Services Division must be present during said installation, configuration, and testing.

### **2.11.3 Main Server**

On such date(s) and times as mutually agreed upon by the parties, COBAN will deliver to the CLIENT, and install and configure into CLIENT's existing network, one (1) 42TB main server, consisting of one (1) 18TB server with internal storage and one (1) 24TB storage, for managing and storing the video files uploaded from the sub-server. COBAN will install and configure said server with the Digital Video Management Solution Enterprise software which will, on a daily basis, purge videos from the main server which are more than 90 days old and which have not been identified by CLIENT for retention. COBAN will also install and configure said server with a COBAN Backup Utility having a custom application which will push, on a nightly basis, (1) a copy of all videos that have been uploaded to said server and (2) all videos which CLIENT has identified to be retained, to the 42 TB SAN Storage, described below, for secondary video storage. The COBAN Backup Utility will also generate a list of added or deleted files that are on the main server; compare said list to a list of files on the 42TB SAN Storage; and remove from the SAN Storage those videos which are more than 90 days old and which have not been identified by CLIENT for retention. COBAN will test the connectivity and operability from the sub-server and the work stations to the main server and correct any deficiencies. A representative from CLIENT's Information Technology Services Division must be present during installation, configuration and testing.

### **2.11.4 SAN Backup Storage**

On such date(s) and times as mutually agreed upon by the parties, COBAN will deliver to the CLIENT, and install and configure into CLIENT's existing network, one (1) 42TB SAN Storage, consisting of one (1) 22TB storage and one (1) 20TB storage, for secondary video storage. COBAN will test the connectivity and operability from the main server to the SAN storage and correct any deficiencies. A representative from CLIENT's Information Technology Services Division must be present during installation, configuration and testing.

### **2.11.5 Time Frame**

Unless otherwise agreed upon by the CLIENT, installation, configuration, testing and the correction of any deficiencies for all back office hardware and software will be completed within five (5) business days from the time at which installation of the first back office hardware or software component first begins.

### **2.11.6 Acceptance by CLIENT**

Within 30 days of the date on which installation, configuration, testing and the correction of any deficiencies of all back office hardware and software is complete, CLIENT shall submit to COBAN a Deliverable Acceptance Form (Appendix IV) indicating acceptance or denial of each back office hardware and software deliverable. Acceptance or denial of said deliverables shall be in accordance with and subject to the provisions of Section 6.1 below. Once CLIENT has accepted the COBAN Digital Video Management Solution Enterprise software via a Deliverable Acceptance Form, the Digital Video Management Solution Enterprise software may be loaded on to additional work stations by the CLIENT with no additional license fees incurred from COBAN.

## **2.12 Wireless Upload System Delivery and Installation**

On such dates and times mutually agreed upon by the parties, COBAN will deliver to CLIENT, and install and configure into CLIENT's existing network, a wireless upload system consisting of all wireless upload

system hardware, software and cabling more fully described above in Section 2.6 Wireless Upload System Hardware, 2.7 Wireless Upload System Software and 2.8 Wireless Upload System Cabling. COBAN will test the connectivity and operability of all wireless upload system hardware, software and cabling from the in-car TopCam Gen 2 Systems via the wireless access points and wireless control system to the sub-server, and correct any deficiencies. The system shall perform in such a manner that it is capable of uploading 2GB of data off of fifteen (15) in-car camera systems simultaneously within a twenty (20) minute window of time. A representative from CLIENT's Information Technology Services Division must be present during installation, configuration and testing.

Unless otherwise agreed upon by the CLIENT, installation, configuration, testing and the correction of any deficiencies for all wireless upload system hardware, software and cabling will be completed within five (5) business days from the time at which installation of the first back office hardware or software component first begins.

Within 30 days of the date on which installation, configuration, testing and the correction of any deficiencies of all wireless upload system hardware, software and cabling is complete, CLIENT shall submit to COBAN a Deliverable Acceptance Form (Appendix IV) indicating acceptance or denial of each wireless upload system hardware, software and cabling deliverable. Acceptance or denial of said deliverables shall be in accordance with and subject to the provisions of Section 6.1 below.

**2.13 Training**

COBAN will provide all necessary training to COBAN-ASC(s) for the installation and configuration services described in Sec. 2.10. CLIENT's payment for such training shall not exceed the amount identified in Appendix III COBAN Price Quote.

On such date and times mutually agreed upon by the parties, COBAN will provide to CLIENT, at CLIENT's facilities, two (2) days of training. One day shall consist of: one (1) four-hour session for Administrator / Back Office Training as detailed below, and one (1) three-hour session for General Officer In-Car Training as detailed below. The other day shall consist of one (1) one-hour session for follow-up General Officer In-Car Training. It is recommended that there be no more than eight (8) trainees per session. COBAN shall provide for said training instructor(s) qualified and trained in, and electronic user manuals on, all equipment and applications to be provided to CLIENT pursuant to this SOW. CLIENT shall provide for said training: facilities, video projector, screen, network connection, dry erase board, dry erase markers and erasers.

**Training Layout:**

Hours	Administrator/Back Office Training
1 x 4hr	<p>Solution Overview</p> <ul style="list-style-type: none"> <li>- Video Capture</li> <li>- Video Transfer</li> <li>- Video Retrieval</li> <li>- Video Archive</li> </ul> <p>Digital Video Management Solution System Operation and Management</p> <ul style="list-style-type: none"> <li>- Create User Template</li> <li>- Create User Group</li> <li>- Create Vehicle Template</li> <li>- Create Event Definition</li> <li>- Create Video Retention</li> <li>- Retrieve Report &amp; Log Client Setup</li> </ul> <p>Server Operation and Management</p> <ul style="list-style-type: none"> <li>- Changing IP</li> <li>- Adding Additional Drives</li> <li>- Setting Security</li> </ul>

	<ul style="list-style-type: none"> <li>- Back Up</li> </ul> <p>Digital Video Management Solution and Server Maintenance</p> <ul style="list-style-type: none"> <li>- Server Updates</li> <li>- Client Updates</li> <li>- Server Backup</li> </ul> <p><i>Overall Review wrap-up</i></p>
<b>Hours</b>	<b>General Officers' In-Car Training</b>
<p><b>1 x 3hr and 1 x 1 hr</b></p>	<p>System Training</p> <ul style="list-style-type: none"> <li>- Operation Demonstration</li> <li>- Hardware Overview</li> <li>- Recording Functions</li> <li>- Wireless Microphone Operations</li> <li>- In-Car Play Back</li> <li>- Data Entry</li> <li>- Video Transfer</li> <li>- System Shutdown Procedures</li> </ul> <p>Back Office Digital Video Management Solution Training Digital Video Management Solution Operation Demonstration</p> <ul style="list-style-type: none"> <li>- Check-in/ Check-out Procedures</li> <li>- Upload Video</li> <li>- Data Retrieval</li> <li>- Video Retention</li> <li>- Data Entry</li> </ul> <p><i>Overall Review wrap-up</i></p>

**2.14 Project Management Fee**

Client will pay to COBAN up to 30 hours at \$150.00 per hour for administrative management of this project.

**2.15 New Technology and Products**

COBAN may replace or add product lines to this SOW if the line is replacing or supplementing deliverables to be provided pursuant to this SOW and the replacement or additional products are superior to the original deliverables offered, and/or if the replacement or additional products meet the requirements and provide the benefits of this SOW and add no additional cost to the contract.

**3.0 GENERAL RESPONSIBILITIES**

**3.1 Technical Documentation and Resources**

At least 30 days prior to COBAN's installation and configuration of any server or storage equipment at CLIENT's facilities, CLIENT shall deliver to COBAN a completed COBAN Back Office Configuration Survey, and current network diagrams.

At the time of COBAN's installation and configuration of any server or storage equipment at CLIENT's facilities, CLIENT will have installed a 208V/30 Amp Socket with NEMA L6-30P connection at Durham Police Headquarters and will provide network connectivity resources.

**3.2 Security Settings**

CLIENT is responsible for making certain that any and all security settings (port openings, firewall settings, antivirus software, etc.) are made prior to the installation, configuration and testing of the aforementioned deliverables. COBAN is not liable for network breach, data interception, or loss of data due to misconfigured firewall settings or virus / Trojan infection except to the extent that such virus or infection is caused, in whole or in part, by defects in the deliverables. It is highly recommended that the CLIENT's Information Technology Services Division maintain a "remote" connection to the server for the remote support of the

server by COBAN software engineers. This connection need not be a "constant" or "always live" type, but one that can be established easily as needed. COBAN is not liable for loss, deletion, alteration, modification, or damage to CLIENT's existing equipment, systems, software or data during the installation, configuration and testing process except to the extent that such loss, deletion, alteration, modification or damage is caused directly or indirectly by COBAN.

### **3.3 Schedule Changes**

Each party shall notify the other at least fourteen (14) days in advance of any changes to agreed upon dates and times of Work to be performed pursuant to this SOW.

### **3.4 Security Clearance and Access**

COBAN will provide to CLIENT a list of COBAN employees, agents or representatives which require access to CLIENT's facilities in order to perform Work pursuant to this SOW. COBAN will ensure that each employee, agent or representative has been informed of and consented to a criminal background investigation by CLIENT for purposes of being allowed access to CLIENT's facilities. For each employee, agent or representative identified, COBAN will provide to Client at least 21 days prior to access to CLIENT's facilities, said person's: first, middle and last names; a photocopy of a government issued picture identification bearing the person's name; title; focus area; date of birth; and social security number. CLIENT, in its sole discretion, may deny access to its facilities based upon the results of said background investigations and COBAN will provide a different employee, agent or representative who meets CLIENT's requirements for security clearance and access to its facilities to perform Work pursuant to this SOW. COBAN employees, agents or representatives who are provided security clearance by CLIENT will be provided a laminated visitor badge with attached clip which must be visibly displayed on their clothing. Persons not visibly displaying a visitor or CLIENT approved badge may be removed from CLIENT's facilities. COBAN employees, agents or representatives who are provided security clearance by CLIENT will be provided with parking privileges at, and escorted access to, CLIENT's facilities, as well as passwords to CLIENT's systems and equipment to the extent necessary to perform Work pursuant to this SOW.

## **4.0 General Terms and Conditions**

### **4.1 Force Majeure**

Neither party hereto shall be liable for delays or failure to perform with respect to this agreement due to (i) causes beyond the party's reasonable control and not avoidable by diligence, (ii) acts of God, epidemics, war, riots, or delays in transportation which are beyond the party's reasonable control and not avoidable by diligence, or (iii) inability for causes beyond its control and not avoidable by diligence to obtain necessary labor, materials, or manufacturing facilities, or delays caused by subcontractors due to similar causes. In the event of any such delay, the date of performance shall be extended for a period equal to the time lost by reason of the delay.

### **4.2 Indemnification**

To the maximum extent allowed by law, COBAN shall defend, indemnify, and save harmless the CLIENT, its officers, officials, independent contractors, agents, and employees, excluding COBAN, from and against all claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements and expenses, including without limitation interest and reasonable attorneys' fees assessed as part of any such item, that arise in any manner from, in connection with, or out of this SOW as a result of acts or omissions of COBAN or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

### **4.3 Choice of Law and Forum**

This contract shall be deemed made in Durham County, North Carolina. This contract shall be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this contract shall be the North Carolina General Court of Justice in Durham County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

#### **4.4 Waiver**

No action or failure to act by either party shall constitute a waiver of any of its rights or remedies that arise out of this contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

#### **4.5 Severability**

If any provision of this contract shall be unenforceable, the remainder of this contract shall be enforceable to the extent permitted by law.

#### **4.6 Successors and Assigns**

Unless CLIENT otherwise agrees in writing, COBAN and all assignees shall be subject to all of CLIENT's defenses and shall be liable for all of COBAN's duties that arise out of this contract. Without granting COBAN the right to assign, it is agreed that the duties of COBAN that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

#### **4.7 No Third Party Rights Created**

This contract is intended for the benefit of CLIENT and COBAN and not any other person.

#### **4.8 Compliance with Law**

In performing all of the Work, COBAN shall comply with all applicable federal, state and local laws and codes .

#### **4.9 Modifications**

A modification to this SOW is not valid unless executed by both parties and otherwise in accordance with the requirements of law.

#### **4.10 City Manager's Authority**

To the extent, if any, CLIENT has the power to suspend or terminate this SOW or COBAN's services thereunder, that power may be exercised by CLIENT's City Manager or a deputy or assistant City Manager without City Council action.

#### **4.11 Termination for Convenience**

Without limiting any party's right to terminate for breach, the City may, without cause, and in its discretion, terminate this contract for convenience by giving COBAN written notice that refers to this section. Termination for convenience shall be effective at the time indicated in the notice.

Upon termination for convenience, all obligations that are still executory on both sides are discharged except that any right based on prior breach or performance survives, and the indemnification provisions shall remain in force. In case of termination for convenience, COBAN shall follow the City's instructions as to which subcontracts to terminate.

The City shall pay COBAN an equitable amount for the costs and charges that accrue because of the City's decisions with respect to the subcontracts, but excluding profit for COBAN. Within 20 days after termination for convenience, the City shall pay COBAN for all Work performed except to the extent previously paid for. Work shall be paid for in accordance with the method to be used for payment had the Work been completed except to the extent it would be inequitable to either party, and if Work was to be paid for on a lump sum basis, the City shall pay the part of the lump sum that reflects the percentage of completion attained for that Work. COBAN shall not be entitled to any payment because of termination for convenience except as stated in this section, whether on the basis of overhead, profit, damages, other economic loss, or otherwise.

### **5.0 SPECIAL TERMS AND CONDITIONS**

#### **5.1 Effect on Vehicle's Safety-Related Design**

The CLIENT acknowledges and understands that the installation of after-market equipment in motor vehicles can compromise a vehicle's safety-related design characteristics, including but not limited to:

- Airbags, including but not limited to, potential obstruction of airbag deployment;
- Passenger compartment, including but not limited to potential for ergonomic problems, physical obstacles, etc.;
- Trunk/gas tank protection, including but not limited to the potential for trunk-mounted equipment to exacerbate tank vulnerability in a rear collision.

By agreeing to this SOW and to the performance contemplated thereby, the CLIENT expressly assumes the risks outlined above with respect to the equipment and the installation of said equipment hereunder. To this end, the CLIENT agreement on the mechanical placement of after-market, in-vehicle equipment during installation hereunder constitutes CLIENT's acceptance that these minimum safety requirements have been met.

COBAN shall bear no liability whatsoever for any claims, expenses, losses or costs relating to the safety of any equipment provided hereunder or the safety of any installations thereof.

## **5.2 Security and Privacy Issues**

The CLIENT acknowledges and understands that the CLIENT is solely responsible for developing, implementing and maintaining appropriate security and privacy policies and operating procedures for the system(s) described in this SOW, and ensuring on-going compliance with them. COBAN shall bear no liability for, and the CLIENT hereby releases COBAN and its successors and assigns harmless from, any security- or privacy-related claims, expenses, losses, or costs relating to the CLIENT's use of the materials, system or services provided by COBAN hereunder, including any security- or privacy-related claims based on the content of any information captured on any video recorder provided hereunder, except to the extent that such security- or privacy-related claims, expenses, losses or costs are caused, in whole or in part, by defects in the deliverables.

## **5.3 Requests or Orders for Testimony or Evidence**

The CLIENT acknowledges and agrees that COBAN's performance hereunder does not include any obligation to provide testimony or other evidence of any kind in any legal, regulatory, administrative or other proceeding excluding lawfully issued subpoenas or orders issued by a judge or court of law. In the event that COBAN is requested by the CLIENT to be the expert witness to provide testimony or any evidence of any kind in connection with its performance hereunder, the CLIENT agrees to pay COBAN's actual expenses incurred in the provision of such testimony or evidence.

## **6.0 PRICING AND BILLING**

### **6.1 Acceptance of Deliverables**

To ensure that CLIENT's purpose and intent for entering into this agreement are met, certain deliverables have been identified in this SOW as requiring CLIENT's completion and submission to COBAN of a Deliverable Acceptance Form (Appendix IV), and said deliverables shall not be deemed accepted by CLIENT until CLIENT indicates acceptance on said form. CLIENT is under no obligation to accept any such deliverable, in whole or in part, which CLIENT does not reasonably believe is in accordance with its purpose and intent as stated in Section 1.1 of this SOW. If CLIENT denies acceptance of a deliverable pursuant to the Deliverable Acceptance Form, COBAN shall have 30 days, or such time as is otherwise agreed upon by CLIENT, from receipt of the Deliverable Acceptance Form to provide replacement good(s) and/or service(s) to CLIENT which CLIENT deems acceptable.

CLIENT's indication of acceptance, pursuant to a Deliverable Acceptance Form, of any deliverable, in whole or in part, does not relieve COBAN of any warranties provided pursuant to this SOW, nor claims by CLIENT for breach of contract.

### **6.2 Pricing**

Deliverables shall be charged to CLIENT at the rates specified on the COBAN Price Quote (Appendix III).

**6.3 Shipping**

All costs of initial packaging, shipping, insurance and delivery of goods identified in Section 2.0 shall be pre-paid and then invoiced by COBAN to CLIENT. The amount to be paid by CLIENT for said packaging, shipping, insurance and delivery shall not exceed the amounts identified for such services in Appendix III COBAN Price Quote. Unless otherwise agreed upon by the parties, the aforementioned shipment and delivery shall be via United Parcel Service (UPS) or Federal Express (FedEx) insured ground. COBAN shall be responsible for goods until accepted by CLIENT. CLIENT is not responsible for any costs associated with packaging, shipping, insurance and delivery between COBAN, a COBAN-ASC, or their employees, agents or representatives

**6.4 Billing**

For those deliverables subject to CLIENT's acceptance via the Deliverable Acceptance Form, COBAN shall invoice CLIENT within 30 days of receipt of a completed Deliverable Acceptance Form on which CLIENT has indicated acceptance of the deliverable(s). For all other deliverables, COBAN shall invoice CLIENT within 30 days of delivery to the CLIENT. Each invoice shall include, at a minimum: date of invoice issuance; description of deliverable; units of goods or number of services provided; date of delivery; if applicable, date of acceptance by CLIENT via Deliverable Acceptance Form; price per deliverable; total invoice amount; if applicable, vehicle number; if applicable, name of service provider; and such other information as may be reasonably requested by CLIENT. Invoices shall be sent to CLIENT's address as indicated in Section 1.6. CLIENT shall not be obligated to pay COBAN any payments, fees, expenses or compensation other than that authorized by this section.

**6.5 Payments**

The CLIENT shall make payment within 30 days following the receipt of an invoice for all undisputed amounts contained in the invoice. Payments shall be mailed to the address indicated in Section 1.6.

**7.0 PROJECT AUTHORIZATION AND NOTICE TO PROCEED**

By signing below, CLIENT and COBAN agree to the scope and terms and conditions identified in this SOW. Notice to proceed is constituted by an executed SOW and signed Purchase Order.

**Agreed to and Accepted by:**

**CITY OF DURHAM**

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

Attest

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

Pre-Audit Certification

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

**COBAN TECHNOLOGIES, INC.**

*David Hinojosa*

*Nov 22, 2010*

Seller Signature

Date

**David Hinojosa**

Printed Name

**VP of Sales**

Title & Organization