

AI-33298

CC CONSENT

Meeting Date: 07/31/2012

Submitted By: Tanya Delira, PURCHASING DEPT.

Department: PURCHASING DEPT.

Information

CAPTION

Sheriff's Office:

Requesting authority to renew our annual support service contract for the Quoter Master software with The Percs Inc. thru requisition 217172 in the amount of \$350.00 yr.

BACKGROUND

Fiscal Impact

FISCAL YEAR: 2012

ACCT. #: 2-1100-421-00-280-001-0336

FUNDS AVAILABLE Y/N?: y

MATCHING FUNDS Y/N?:

BUDGETARY IMPACT:

FISCAL YEAR: 2012

ACCT. #: 2-1100-421-00-280-001-0336

FUNDS AVAILABLE Y/N?: y

MATCHING FUNDS Y/N?:

BUDGETARY IMPACT:

Attachments

The Percs Inc.

Form Review

Inbox

Reviewed By

Date

Form Started By: Tanya Delira

Started On: 07/18/2012 08:11 AM

Requisition
SHERIFF'S LAW ENFORMENT FACILITY

Req # 00217172

PO #

Date: 06/04/12

Bill To: x
x

Vendor: 304662
 THE PERCS INDEX INC.
 960 THERMAL DRIVE
 COQUITLAM, B.C. CANADA V3J 6S1
 FAX (604)475-4669

Ship To: SHERIFF'S LAW ENFORMENT FACILITY
 711 EL CIBOLO RD.
 EDINBURG TX 78539

Contact: MYRA MONTOYA
 956-393-6024

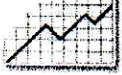
Contract No:

Special Instructions:

QUANTITY	UOM	DESCRIPTION	UNIT PRICE	AMOUNT
1.00	YEAR	DO NOT DUPLICATE ORDER SERVICE CONTRACT - ANNUAL SUPPORT CONTRACT FOR QUARTERMASTER. INCLUDES TECHNICAL SUPPORT, PRODUCT UPDATES AND ACCESS TO THE CUSTOMER SUPPORT AREA OF THE WEBSITE.	350.00	350.00
		Account No _____	<u>Encumbrance</u>	
		2-1100-421-00-280-001-0-336	350.00	
			Freight	.00
			Total	350.00
		REPORT ROAD HAZARDS 1-866-HCR-SAFE OR 1-866-427-7233		

Authorized By: _____

REQ 2/17/12



The PERCS Index Inc.

960 Thermal Drive
Coquitlam, BC Canada
V3J 6S1

Invoice

Date	Invoice #
5/16/2012	30743

Invoice To
Hidalgo County Sheriff's Office Att'n Myra Montoya Sheriff's Law Enforcement Facility 711 El Cibolo Rd. Edinburg, TX 78539

Ship To

P.O. No.	Terms	Due Date
	Net 30	6/15/2012

Description	Qty	Rate	Amount
Service Contract - Annual support contract for Quarter Master. Includes technical support, product updates and access to the Customer Support area of the website. Current contract expires June 15, 2012		350.00	350.00
Thank you for your continued support.			Total USD 350.00
Phone #	Fax #	E-mail	Payments/Credits USD 0.00
866-461-4669	604-475-4669	david@percs.com	Balance Due USD 350.00

GST/HST No. 874069172

2-115

Tanya.Delira

percs

From: Myra Montoya [myra.montoya@hidalgo.org]
Sent: Friday, June 15, 2012 3:33 PM
To: 'Tanya.Delira'
Subject: FW:

**Myra Montoya, Accountant I
Hidalgo County Sheriff's Office
711 El Cibolo Road
Edinburg, Texas 78539
Phone: (956) 393-6024
Fax: (956) 393-6027**

From: Myra Montoya [mailto:myra.montoya@hidalgo.org]
Sent: Tuesday, June 05, 2012 12:00 PM
To: 'David'
Subject: RE:

Thank you much. I will forward this to my purchasing agent, Tanya, I believe she is the person you spoke to after I emailed you.

Thank you again.

**Myra Montoya, Accountant I
Hidalgo County Sheriff's Office
711 El Cibolo Road
Edinburg, Texas 78539
Phone: (956) 393-6024
Fax: (956) 393-6027**

From: David [mailto:david@percs.com]
Sent: Tuesday, June 05, 2012 11:53 AM
To: Myra Montoya
Subject: Re:

Myra:

I just spoke to you on the telephone. There is not a contract that needs to be signed. What this 'contract' is an agreement that we will provide unlimited telephone support during normal business hours for the software as well as provide any updates to the software and allow access to our Customer Support area of our website for the duration of the contract.

If you need any additional information, please let us know,

David

David Miller
The PERCS Index Inc.
Toll Free: 866-461-4669

On 6/5/2012 9:37 AM, Myra Montoya wrote:

Good morning,

I recently received invoice 30743 for the service contract renewal, I was wondering if you have an agreement that needs to be signed?

Please advise. Thank you.

Myra Montoya, Accountant I
Hidalgo County Sheriff's Office
711 El Cibolo Road
Edinburg, Texas 78539
Phone: (956) 393-6024
Fax: (956) 393-6027

Tanya.Delira

From: Tanya.Delira [tanya.delira@co.hidalgo.tx.us]
Sent: Monday, June 25, 2012 1:28 PM
To: 'david@percs.com'
Cc: 'Myra Montoya'; 'Martha Salazar'
Subject: Invoice #30743

Mr. Miller,

Pursuant to our conversation last week, I would like to know if you can please forward me your companies Terms and Conditions to revise them since there is no agreement or contract to be signed.

Thank You,

Tanya De Lira

Hidalgo County Purchasing Department
2812 S. Business Hwy 281
Edinburg, Texas 78539
P 956-318-2626 x 4878
F 956-292-7612

Tanya.Delira

From: Tanya.Delira [tanya.delira@co.hidalgo.tx.us]
Sent: Monday, June 25, 2012 3:56 PM
To: 'Martha Salazar'
Subject: FW: Invoice #30743
Attachments: Hidalgo Support Agreement.pdf

May you please forward to legal. The only thing that needs to be changed are the governing laws from British Columbia, Canada to Texas.

From: David [mailto:david@percs.com]
Sent: Monday, June 25, 2012 3:21 PM
To: Tanya.Delira
Subject: Re: Invoice #30743

Tanya:

As requested.

David

David Miller
The PERCS Index Inc.
Toll Free: 866-461-4669

On 6/25/2012 11:28 AM, Tanya.Delira wrote:



Mr. Miller,

Pursuant to our conversation last week, I would like to know if you can please forward me your company's Terms and Conditions to revise them since there is no agreement or contract to be signed.

Thank You,

Tanya De Lira
Hidalgo County Purchasing Department
2812 S. Business Hwy 281
Edinburg, Texas 78539
P 956-318-2626 x 4878
F 956-292-7612

Tanya.Delira

From: Tanya.Delira [tanya.delira@co.hidalgo.tx.us]
Sent: Monday, July 09, 2012 11:20 AM
To: 'David'
Cc: 'Myra Montoya'
Subject: RE: Invoice #30743

Mr. Miller I have revised your terms and conditions and I find that this Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Hidalgo County.

Is there any possibility to modify this agreement to accommodate our request?

From: David [mailto:david@percs.com]
Sent: Monday, June 25, 2012 3:21 PM
To: Tanya.Delira
Subject: Re: Invoice #30743

Tanya:

As requested.

David

David Miller
The PERCS Index Inc.
Toll Free: 866-461-4669

On 6/25/2012 11:28 AM, Tanya.Delira wrote:



Mr. Miller,

Pursuant to our conversation last week, I would like to know if you can please forward me your companies Terms and Conditions to revise them since there is no agreement or contract to be signed.

Thank You,

Tanya De Lira
Hidalgo County Purchasing Department
2812 S. Business Hwy 281
Edinburg, Texas 78539
P 956-318-2626 x 4878
F 956-292-7612

Tanya.Delira

From: David [david@percs.com]
Sent: Tuesday, July 17, 2012 1:58 PM
To: Tanya.Delira
Subject: Re: FW: Invoice #30743

Tanya:

Here is the text of the earlier email that I sent to you.

Tanya:

Most of our customers that pay the annual support fee do it without any kind of a contract. The contract was drafted in order to satisfy those very few that insisted that we have a formal contract. Basically, what we provide is unlimited telephone support to help out our customers, access to our website where we post our latest software versions and will do our best to try and fix any corruption in the databases. This is done for a very small fee - in your case \$350.00. The contract is drafted in British Columbia where our company is resident. We don't know what surprises the laws of Texas may hold for this type of agreement but we do know that there are no surprises in our jurisdiction. For that reason, we would not be willing to have the contract modified in that fashion. We are a small company and have successfully operated on a basis of trust for many years and I imagine will continue to do so into the foreseeable future.

Thank you,

David

David Miller
The PERCS Index Inc.
Toll Free: 866-461-4669

On 7/17/2012 11:46 AM, Tanya.Delira wrote:

Mr. David I have not received your response, do you know if you are going to be able to make the changes or not?

From: Tanya.Delira [mailto:tanya.delira@co.hidalgo.tx.us]
Sent: Monday, July 09, 2012 11:20 AM
To: 'David'
Cc: 'Myra Montoya'
Subject: RE: Invoice #30743

Mr. Miller I have revised your terms and conditions and I find that this Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Hidalgo County.

Is there any possibility to modify this agreement to accommodate our request?

From: David [mailto:david@percs.com]
Sent: Monday, June 25, 2012 3:21 PM

To: Tanya.Delira
Subject: Re: Invoice #30743

Tanya:

As requested.

David

David Miller
The PERCS Index Inc.
Toll Free: 866-461-4669

On 6/25/2012 11:28 AM, Tanya.Delira wrote:



Mr. Miller,

Pursuant to our conversation last week, I would like to know if you can please forward me your companies Terms and Conditions to revise them since there is no agreement or contract to be signed.

Thank You,

Tanya De Lira
Hidalgo County Purchasing Department
2812 S. Business Hwy 281
Edinburg, Texas 78539
P 956-318-2626 x 4878
F 956-292-7612

Tanya.Delira

From: Martha Salazar [martha.salazar@co.hidalgo.tx.us]
Sent: Tuesday, July 17, 2012 5:01 PM
To: 'Tanya.Delira'
Subject: RE: FW: Invoice #30743

Importance: High

OK place on agenda and make sure that this e-mail is attached.
Marty

From: Tanya.Delira [mailto:tanya.delira@co.hidalgo.tx.us]
Sent: Tuesday, July 17, 2012 4:49 PM
To: 'Martha Salazar'
Subject: RE: FW: Invoice #30743

Yes

From: Martha Salazar [mailto:martha.salazar@co.hidalgo.tx.us]
Sent: Tuesday, July 17, 2012 4:47 PM
To: 'Tanya.Delira'
Cc: 'Myra Montoya'
Subject: RE: FW: Invoice #30743
Importance: High

Ms. Tanya:
Is the Company agreeing to a PO only?
Marty

From: Tanya.Delira [mailto:tanya.delira@co.hidalgo.tx.us]
Sent: Tuesday, July 17, 2012 2:11 PM
To: 'Martha Salazar'
Cc: 'Myra Montoya'
Subject: FW: FW: Invoice #30743

Ms. Marty this is the response I got from The Percs Index Inc., company that gives technical support to our quarter masters software.

From: David [mailto:david@percs.com]
Sent: Tuesday, July 17, 2012 1:58 PM
To: Tanya.Delira
Subject: Re: FW: Invoice #30743

Tanya:

Most of our customers that pay the annual support fee do it without any kind of a contract. The contract was drafted in order to satisfy those very few that insisted that we have a formal contract. Basically, what we provide is unlimited telephone support to help out our customers, access to our website where we post our latest software versions and will do our best to try and fix any corruption in the databases. This is done for a very small fee - in your case \$350.00. The contract is drafted in British Columbia where our company is resident. We don't know what surprises the laws of Texas

may hold for this type of agreement but we do know that there are no surprises in our jurisdiction. For that reason, we would not be willing to have the contract modified in that fashion. We are a small company and have successfully operated on a basis of trust for many years and I imagine will continue to do so into the foreseeable future.

Thank you,

David

David Miller
The PERCS Index Inc.
Toll Free: 866-461-4669

On 7/17/2012 11:46 AM, Tanya.Delira wrote:

Mr. David I have not received your response, do you know if you are going to be able to make the changes or not?

From: Tanya.Delira [<mailto:tanya.delira@co.hidalgo.tx.us>]
Sent: Monday, July 09, 2012 11:20 AM
To: 'David'
Cc: 'Myra Montoya'
Subject: RE: Invoice #30743

Mr. Miller I have revised your terms and conditions and I find that this Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Hidalgo County.

Is there any possibility to modify this agreement to accommodate our request?

From: David [<mailto:david@percs.com>]
Sent: Monday, June 25, 2012 3:21 PM
To: Tanya.Delira
Subject: Re: Invoice #30743

Tanya:

As requested.

David

David Miller
The PERCS Index Inc.
Toll Free: 866-461-4669

On 6/25/2012 11:28 AM, Tanya.Delira wrote:

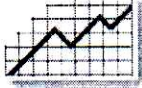
Mr. Miller,

Pursuant to our conversation last week, I would like to know if you can please forward me your companies Terms and Conditions to revise them since there is no agreement or contract to be signed.

Thank You,

Tanya De Lira

Hidalgo County Purchasing Department
2812 S. Business Hwy 281
Edinburg, Texas 78539
P 956-318-2626 x 4878
F 956-292-7612



**SOFTWARE MAINTENANCE AND TECHNICAL
SUPPORT AGREEMENT**

PERCS Index Inc. ("PERCS") will provide the Support Services listed below for the Software and the two contacts ("Designated Contacts") named by Customer on page 3 of this agreement.

1. SUPPORT

PERCS will establish and maintain an organization and process to provide support for the Software to Customer. Support shall include (i) diagnosis of problems or performance deficiencies of the Software and (ii) a resolution of the problem or performance deficiencies of the Software. PERCS will provide telephone software support on a business day basis. Business day is defined as 7:00 AM through 5:00 PM pacific standard time, excluding holidays and weekends.

PERCS will use its best efforts to cure reported and reproducible errors in the Software.

This agreement is not intended as a consulting agreement for customer services.

2. MAINTENANCE

During the term of this agreement, PERCS will provide upon request to the Customer updates, releases and new versions of the Software along with other generally available technical material.

3. WARRANTY

PERCS will undertake all reasonable efforts to provide technical assistance under this agreement and to rectify or provide solutions to problems where the Software does not function as described in the Software documentation, but PERCS does not guarantee that the problems will be solved or that any item will be error-free. This agreement is only applicable to PERCS Software running under the certified environments specified for that product. PERCS will provide the Customer with substantially the same level of service throughout the term of this agreement. PERCS may from time to time, however, discontinue Software products or versions and stop supporting Software products or versions one year after discontinuance, or otherwise discontinue any support service.

PERCS is not liable for incidental, special or consequential damages for any reason (including loss of data or other business or property damage), even if foreseeable or if Customer has advised of such a claim. PERCS's liability shall not exceed the fees that Customer has paid under this agreement.



4. TERM

This agreement shall start on the Effective Date stated below. This agreement shall run for a period of one (1) year from the Effective Date and shall automatically renew for consecutive one (1) year periods unless either party provides written notice of termination within sixty (60) days prior to the anniversary date of the Effective Date. Payment for each renewal term shall be due on the renewal date at the current rates for support of the Software. This agreement may be terminated for non-payment or material breach. Fees paid or due are non-refundable unless PERCS has materially breached this agreement and has failed to cure the breach after 30 days written notice.

5. GENERAL

- a) Each party acknowledges that it has read this Agreement, they understand the agreement and agree to be bound by its terms. Further, both parties agree that this is the complete and exclusive statement of the Agreement between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the parties relating to this Agreement. This Agreement may not be modified or altered except by written instrument duly executed by both parties. The Software and the use thereof is subject to the license agreement related to the Software.
- b) This agreement and performance hereunder shall be governed by the laws of British Columbia, Canada.
- c) If any provision of this Agreement is invalid under any applicable statute or rule of law, it is to that extent, deemed to be omitted.
- d) Customer may not assign or sub-license without the prior written consent of PERCS, Customer's rights, duties or obligations under this Agreement to any person or entity, in whole or in part.
- e) The prevailing party in any action related to this agreement shall have the right to recover its reasonable expenses including attorney's fees.

The term "Software" as used in this agreement means:

Software Name, Version and Number of Copies

____Quarter Master v 4.2_____



The PERCS Index Inc.

960 Thermal Drive Coquitlam, BC V3J 6S1 Canada

Designated Contacts, full names followed by telephone number and e-mail address.
(Two maximum).

Contact 1
Name: _____

Contact 2
Name: _____

Telephone #: _____

Telephone #: _____

E-mail Address: _____

E-mail Address: _____

During the term of this agreement, the Customer may delete and add Designated Contacts by sending notification in writing or by email. We may rely on such notice to make the change.

THE PERCS INDEX INC.

Name: David Miller

Signature:  _____

Title: General Manager

Date: June 25, 2012

CUSTOMER: Hidalgo County Sheriff's Department
Name: _____

Address: _____

Signature: _____

Title: _____

Date: _____

The Effective Date of this agreement is:

June 15, 2012

Tanya.Delira

From: David [david@percs.com]
Sent: Thursday, July 26, 2012 3:01 PM
To: Tanya.Delira
Subject: Re: FW: Invoice #30743

Tanya:

I've already sent to you our formal agreement for your review but for the informal agreement which most users have is that we basically provide unlimited telephone support during normal business hours, all product updates and access to our Customer Support area of the website.

David

David Miller
The PERCS Index Inc.
Toll Free: 866-461-4669

On 7/26/2012 12:49 PM, Tanya.Delira wrote:

Mr. David, are there any Terms and Conditions to your Software Maintenance and Technical Support Agreement?

From: David [mailto:david@percs.com]
Sent: Tuesday, July 17, 2012 1:58 PM
To: Tanya.Delira
Subject: Re: FW: Invoice #30743

Tanya:

Here is the text of the earlier email that I sent to you.

Tanya:

Most of our customers that pay the annual support fee do it without any kind of a contract. The contract was drafted in order to satisfy those very few that insisted that we have a formal contract. Basically, what we provide is unlimited telephone support to help out our customers, access to our website where we post our latest software versions and will do our best to try and fix any corruption in the databases. This is done for a very small fee - in your case \$350.00. The contract is drafted in British Columbia where our company is resident. We don't know what surprises the laws of Texas may hold for this type of agreement but we do know that there are no surprises in our jurisdiction. For that reason, we would not be willing to have the contract modified in that fashion. We are a small company and have successfully operated on a basis of trust for many years and I imagine will continue to do so into the foreseeable future.

Thank you,

David

David Miller
The PERCS Index Inc.
Toll Free: 866-461-4669

On 7/17/2012 11:46 AM, Tanya.Delira wrote:

Mr. David I have not received your response, do you know if you are going to be able to make the changes or not?

From: Tanya.Delira [<mailto:tanya.delira@co.hidalgo.tx.us>]
Sent: Monday, July 09, 2012 11:20 AM
To: 'David'
Cc: 'Myra Montoya'
Subject: RE: Invoice #30743

Mr. Miller I have revised your terms and conditions and I find that this Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Hidalgo County.

Is there any possibility to modify this agreement to accommodate our request?

From: David [<mailto:david@percs.com>]
Sent: Monday, June 25, 2012 3:21 PM
To: Tanya.Delira
Subject: Re: Invoice #30743

Tanya:

As requested.

David

David Miller
The PERCS Index Inc.
Toll Free: 866-461-4669

On 6/25/2012 11:28 AM, Tanya.Delira wrote:



Mr. Miller,

Pursuant to our conversation last week, I would like to know if you can please forward me your companies Terms and Conditions to revise them since there is no agreement or contract to be signed.

Thank You,

Tanya De Lira

Hidalgo County Purchasing Department
2812 S. Business Hwy 281
Edinburg, Texas 78539
P 956-318-2626 x 4878
F 956-292-7612