

Please wait to print... saving Agenda Item information.

**AI-34039**

**CC CONSENT**

**Meeting**

09/18/2012

**Date:**

Submitted By: Tanya Delira, PURCHASING DEPT.

Department: PURCHASING DEPT.

Information

CAPTION

**Sheriff's Office:**

Requesting authority to upgrade the UFED Software System and to continue existing support with CelleBrite USA, Corp. through requisition #220985 at \$999.00/year commencing upon approval.

BACKGROUND

Fiscal Impact

FISCAL YEAR: 2012

ACCT. #: 2-1100-421-00-280-001-0-336

FUNDS AVAILABLE Y/N?: y

MATCHING FUNDS Y/N?:

BUDGETARY IMPACT:

Attachments

Cellebrite

Form Review

**Inbox**

**Reviewed By**

**Date**

Form Started By: Tanya Delira

Started On: 09/04/2012 02:57 PM

**Requisition**  
**SHERIFF'S LAW ENFORMENT FACILITY**

**Req # 00220985**

**PO #**

**Date: 08/10/12**

**Bill To:** x  
x

**Vendor:** 356735  
 CELLEBRITE USA CORP  
 266 HARRISTOWN RD STE 105  
 GLEN ROCK NJ 07452  
 FAX (201)848-9982

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

**Contact:** T. CONTRERAS  
 956-393-6024

**Contract No:**

**Special Instructions:**

QUANTITY	UOM	DESCRIPTION	UNIT PRICE	AMOUNT
1.00	EACH	UNIVERSAL FORENSIC EXTRACTION DEVICE LICENSE RENEWAL DO NOT DUPLICATE ORDER ITEM#SWUF-1, SOFTWARE UPGRADE - ONE YEAR LOGICAL RENEWAL FOR SE# 5603590 Account No 2-1100-421-00-280-001-0-336	999.00	999.00
			<u>Encumbrance</u>	
			999.00	
			Freight	.00
			Total	999.00
		REPORT ROAD HAZARDS 1-866-HCR-SAFE OR 1-866-427-7233		

*Francis to extract data from cell phones*

*Jubeca/cellebrite usa.com.*

*201-848-8552  
 cur x 138*

*Tenison  
 Invoice for number  
 201-848-8552 x 117*

*95228-  
 8/16/12*

**Authorized By:** \_\_\_\_\_

Req 220985

Cellebrite USA, Inc.  
266 Harristown Rd.  
Ste. 105  
Glen Rock, NJ 07452

### Quotation

Quote Number:  
Q-01659-W

Tel: 201-848-8552  
Fax: 201-848-9982  
Tax ID#: 22-3770059

Quote Date:  
6/26/2012

**Quoted to:**  
Hidalgo County Sheriff's Office  
711 El Cibolo Rd  
  
Edinburg, TX 78542  
**Contact:** Terry Contreras  
**Phone #:** 956-393-6020

**Quote Ship to:**  
Hidalgo County Sheriff's Office  
711 El Cibolo Rd  
  
Edinburg, TX 78542

Customer ID	Good Thru	Payment Terms	Sales Rep	
HIDALGOCOUNTY-711	9/30/2012	Net 30	John Bigler	
Quantity	Item	Description	List Price	Ext. Price
1	SWUF-1	Software Upgrade - One Year  Logical Renewal for ser # 5603590	\$999.00	\$999.00

*Handwritten signature/initials*

**Please include the following information on your PO for Cellebrite UFED purchase:**

- Please include the ORIGINAL QUOTE NUMBER (For example - M777) on your PO
- CONTACT NAME & NUMBER of individual purchasing and bill to address
- E-MAIL ADDRESS of END USER for monthly software update as this is critical for future functionality

**Terms and conditions:**

- Payment terms: Net 30; 1.5% per month interest on late payment
- Shipping: FCA, Glen Rock, NJ, USA: Limited Warranty: Hardware: 12 Months; Software: 60 days; Touch Screen: 30 days
- 12 months software support included in initial purchase. The next support period purchased begins immediately at the end of the 12 months, i.e., no gaps in support period are allowed.
- Complete Terms and conditions of sale available upon request (or available at: <http://www.cellebrite.com/us/tc>)

Subtotal:	\$999.00
S&H Amount:	
Sales Tax:	\$0.00
<b>Total:</b>	<b>\$999.00</b>

## CELLEBRITE TERMS AND CONDITIONS OF SALE

1. **Order of Precedence.** This Cellebrite Terms and Conditions of Sale ("Terms") will be the only terms and conditions that apply to any purchase order ("Purchase Order") between you ("Buyer") and Cellebrite USA Corporation ("Cellebrite"). Cellebrite's acceptance of a Purchase Order is conditioned upon Buyer's acceptance of these Terms and all Purchase Orders submitted by Buyer shall be deemed to incorporate and be subject to the Terms.

2. **Orders.** Buyer shall submit Buyer's Purchase Orders for Product to Cellebrite as written Purchase Orders subject solely to the Terms, stating the quantities and descriptions of products ("Products") required, applicable purchase prices and license fees, requested delivery dates, and billing/shipping instructions. Cellebrite will accept or reject (at Cellebrite's sole discretion) Buyer's Purchase Order at Cellebrite's offices in Glen Rock, New Jersey. Buyer may reschedule delivery one time at least thirty (30) days before delivery date. If Buyer makes any changes less than thirty (30) days before delivery date or any additional rescheduled delivery, Buyer shall pay the full amount under the Purchase Order.

3. **Delivery and Acceptance.** Shipment will be FCA Cellebrite's location (Incoterms 2010) in New Jersey. Unless specified in the Purchase Order, shipment will be made in a manner reasonably determined by Cellebrite. Shipments are deemed accepted upon delivery.

4. **Pricing.** Unless otherwise stated in writing by Cellebrite, all prices quoted are in U.S. dollars, expire thirty (30) days after the date of a quotation, and are exclusive of transportation, insurance, federal, state, local, excise, value-added, use, sales, property (ad valorem), and similar taxes or duties now in force or hereafter enacted. Buyer agrees to pay all taxes, fees, or charges of any nature whatsoever imposed by any governmental authority on, or measured by the transaction between Buyer and Cellebrite, in addition to the prices quoted or invoiced. If Cellebrite is required to collect the foregoing, Buyer will pay such amounts unless Buyer has provided Cellebrite with a valid tax exemption certificate authorized by the appropriate taxing authority.

5. **Terms of Payment.** Payment is due prior to shipping; provided, however, that if Cellebrite has approved credit terms for Buyer's purchase, Buyer shall pay the invoiced amount within thirty (30) days from the date of Cellebrite's invoice, which Cellebrite will not issue before shipping. Cellebrite may assess an interest charge of up to one and one-half percent (1-1/2%) per month on all amounts which are not timely paid (but not to exceed the maximum lawful rate), accruing on a daily basis and compounding monthly from the date such amounts were due. If Buyer delays shipments other than as authorized in these Terms, Cellebrite may invoice Buyer when Cellebrite is prepared to ship. Cellebrite may invoice Buyer immediately upon cancellation of or change to any Purchase Order in accordance with Section 2 above.

6. **PMSI.** Buyer hereby grants to Cellebrite a purchase money security interest in the Product or Software to secure the purchase price of the Product or Software until the purchase price is paid in full. Buyer shall execute and deliver all documents requested by Cellebrite to perfect and maintain Cellebrite's security interest.

7. **Title to Software.** Notwithstanding anything to the contrary, software furnished hereunder ("Software") is licensed and not sold. Title to Software and documentation related to Software ("Documentation") shall remain solely with Cellebrite. Software provided under these Terms will be subject to an end user license agreement ("EULA"), which takes precedence over these Terms in the event of any conflict between these Terms and the EULA.

8. **Warranty.** Cellebrite's attached standard warranty shall apply to the sale of Products or license of any Software under these Terms.

9. **Software Support.** For the first twelve (12) months following the purchase of a Product, Cellebrite shall supply software for Products ("Software Support") at no additional charge. Following such period, Buyer may use a Purchase Order to purchase additional Software Support; provided, however, that Software Support must be continuous. During the Software Support period for a Product, Cellebrite shall supply certain software updates to Buyer, in accordance with Cellebrite's standard practices. Cellebrite may invoice Buyer for Software Support on the start date of each Software Support agreement. For clarity, Software Support does not cover any hardware issues.

10. **Confidentiality.** Each party agrees to keep the other party's confidential information confidential, with such care as it uses for its own confidential information, but at least reasonable care. These Terms are Cellebrite's confidential information.

11. **Limitation of Liability.** NEITHER PARTY SHALL BE LIABLE HEREUNDER FOR INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, SAVINGS OR REVENUES OF ANY KIND, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS PROVISION SHALL APPLY EVEN IN THE EVENT OF THE FAILURE OF AN EXCLUSIVE REMEDY. TO THE MAXIMUM PERMITTED EXTENT, CELLEBRITE DISCLAIMS ANY AND ALL LIABILITIES OR OBLIGATIONS WHATSOEVER RELATED TO THE USE OF THE PRODUCTS OR SOFTWARE BY ANYONE OTHER THAN BUYER. CELLEBRITE'S ENTIRE LIABILITY TO BUYER FOR ANY DAMAGES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE SHALL BE LIMITED TO THE TOTAL AMOUNT PAID BY BUYER TO CELLEBRITE DURING THE TWELVE (12) MONTH PERIOD THAT IMMEDIATELY PRECEDED THE EVENT THAT GAVE RISE TO THE APPLICABLE CLAIM. THE LIMITATION OF LIABILITY CONTAINED IN THIS SECTION 11 SHALL NOT APPLY TO (I) BUYER'S PAYMENT OBLIGATIONS TO CELLEBRITE HEREUNDER; (II) EACH PARTY'S CONFIDENTIALITY OBLIGATIONS; (III) BUYER'S VIOLATION OF CELLEBRITE'S INTELLECTUAL PROPERTY RIGHTS; AND (IV) BUYER'S INDEMNITY OBLIGATIONS.

12. **Buyer Indemnity.** Buyer will, at its expense: (i) indemnify and hold Cellebrite and its affiliates, officers and directors harmless from any claim (whether brought by a third party or an employee, consultant or agent of Buyer's) arising from any use of a Product or Software in a manner other than as authorized under these Terms, including using a Product or Software in a manner that violates a person's fourth amendment rights under the United States Constitution (or its foreign equivalent) or misappropriating a person's list of contacts or other personal information, or for an Excluded Item (as defined in Cellebrite's warranty); (ii) reimburse Cellebrite for any expenses, costs and liabilities (including reasonable attorney fees) incurred relating to such claim; and (iii) pay all settlements, damages and costs assessed against Cellebrite and attributable to such claim.

13. **Compliance with Laws.** Buyer represents, warrants and covenants to Cellebrite that Buyer shall only use the Products or Software in compliance with all applicable federal, state or local laws or regulations, or the applicable foreign equivalents and in a manner that does not violate the rights of any third party.

14. **General.** Neither party may assign its rights and obligations hereunder without the prior written consent of the other party, except either party may assign these Terms to any affiliate of such party or to an acquirer (by purchase, merger or otherwise) of all or substantially all of such party's business or assets relating to these Terms, provided that (i) the assignee agrees in writing to be bound by these Terms, (ii) neither the assignor nor assignee are in default hereunder. Any other purported assignment shall be null and void. No course of dealing or failure of either party to strictly enforce any term, right or condition of these Terms shall be construed as a waiver of such term, right or condition. Neither party shall be held responsible for any delay or failure in performance of any part of these Terms (other than payment obligations) to the extent such delay or failure is caused by events beyond its reasonable control. These Terms shall be governed by the laws of the State of New York, excluding its choice of law rules and excluding the Convention for the International Sale of Goods. Buyer gives Cellebrite the right to list Buyer as one of Cellebrite's customers. The headings used in these Terms are for reference purposes only and will not be deemed to in any way affect the interpretation of any term or provision hereof. Except where the context otherwise requires, the terms "including" and "includes" shall mean "including without limitation" and "includes without limitation", respectively. If any term hereof shall be held to be invalid or unenforceable for any reason, then the meaning of such term shall be construed so as to render it enforceable to the extent feasible. If no feasible interpretation would save such term hereof, it shall be severed herefrom, but without in any way affecting the remainder of such term or any other term contained herein, unless such severance effects such a material change as to render these Terms unreasonable. Except as provided for herein and except for any mutual nondisclosure agreement between Buyer and Cellebrite, these Terms constitute the entire agreement between Buyer and Cellebrite with respect to the subject matter herein.

## CELLEBRITE'S STANDARD WARRANTY

A. **Hardware Warranty.** Cellebrite warrants that each Product, including all firmware and excluding Software (for which the warranty is only as provided under Section D), but not related services or prototypes of any such Product, shall be in conformance with the written specification furnished or agreed to by Cellebrite for twelve (12) months after acceptance (the "Warranty Period"). If any failure to conform to such specification ("Defect") is suspected in any Product during the Warranty Period, Buyer, after obtaining return authorization information from Cellebrite, shall ship suspected defective samples of the Product to Cellebrite in accordance with Cellebrite's instructions. No Product will be accepted for repair, replacement, credit or refund without the written authorization of Cellebrite. Cellebrite shall analyze the failures, making use, when appropriate, of technical information provided by Buyer relating to the circumstances surrounding the failures. Cellebrite will verify whether any Defect appears in the Product. If a returned Product does not have a Defect, Buyer shall pay Cellebrite all costs of handling, inspection, repairs and transportation at Cellebrite's then-prevailing rates. If a returned Product has a Defect, Cellebrite shall, at Buyer's option, either repair or replace the defective Product with the same or equivalent Product without charge or, if such repair or replacement has not occurred by the thirtieth (30th) day following Cellebrite's receipt of the returned Product, credit or refund (at Buyer's option) the purchase price within ten (10) days after such thirtieth (30th) day; provided: (i) Buyer notifies Cellebrite in writing of the claimed Defect within thirty (30) days after Buyer knows or reasonably should know of the claimed Defect, (ii) the claimed Defect actually exists and (iii) the Defect appears within the Warranty Period. Cellebrite shall ship any replacement Product FCA Cellebrite's premises (Incoterms 2010), freight prepaid to Buyer's destination. Any replaced Product or replaced parts of any Product shall become Cellebrite's property. In no event shall Cellebrite be responsible for deinstallation or reinstallation of any Product or for the expenses thereof. Repairs and replacements covered by the above warranty are warranted to be free from Defects as set forth above with respect to any Defect that appears (i) within six (6) months from the date of repair or replacement or (ii) prior to the expiration of the original Warranty Period, whichever is later.

B. **Touch Screen Exclusion.** Notwithstanding Section A, the Warranty Period for the touch screen of any Product with a touch screen is the period from the date of Buyer's initial receipt of the Product until thirty (30) days after such date, and Cellebrite warrants such touch screen only to the extent any damage to it was not caused by Buyer's negligence or willful misconduct.

C. **Warranty of Title.** Cellebrite warrants that any title conveyed hereunder (excluding Software) shall be good and its transfer rightful, and that the Products delivered under these Terms shall be free from all liens, encumbrances and restrictions. Cellebrite further warrants that it has all rights and powers necessary to perform its obligations under these Terms and that to its knowledge, it has the right to grant the licenses and other rights provided to Buyer by these Terms.

D. **Software Warranty.** Cellebrite warrants to Buyer that for a period of sixty (60) days after the date of shipment, the Software will perform substantially in conformity with its Documentation. As Buyer's sole and exclusive remedy, Cellebrite will, at its sole expense, in its sole discretion and as its sole obligation, promptly repair or replace any Software that fails to meet this limited warranty.

E. **Exclusions.** Notwithstanding anything to the contrary in this warranty, the warranties herein do not apply to, and Cellebrite makes no warranties with respect to defects in Products or Software in the following cases: (a) Buyer's misuse, damage, or unauthorized modification of the Products or Software; (b) Buyer's combination of the Products or Software with other products or software, other than as authorized in writing by Cellebrite; (c) placement of the Products or Software in an operating environment contrary to specific written instructions and training materials provided by Cellebrite to Buyer; (d) Buyer's intentional or negligent actions or omissions, including physical damage, fire, loss or theft of a Product; (e) cosmetic damage to the outside of a Product, including ordinary wear and tear, cracks or scratches; (f) for any Product with a touch screen, any defect in such a touch screen after thirty (30) days from the date of receipt of such Product, or any defect caused in a touch screen by Buyer's negligence or willful misconduct; (g) maintenance of the Products or Software in a manner that is contrary to specific written instructions provided by Cellebrite to Buyer; (h) a product or service not provided, authorized or approved by Cellebrite for use with the Products or Software; (i) any repair services not authorized or approved by Cellebrite; (j) any design, documentation, materials, test data or diagnostics supplied by Buyer that have not been authorized or approved by Cellebrite; (k) usage of any test units, experimental products, prototypes or units from risk lots (each of which is provided "AS IS"); (l) any third party original equipment manufacturer's restrictions on individual phones or models of phones that prevent the phones or models of phones from working with the Products or Software; (m) any damage to a third party device alleged to or actually caused by or as a result of use of a Product or Software with a device; (n) any Products that have had their serial numbers or month and year of manufacture or shipment removed, defected or altered; (o) any interactions or other effects relating to or arising out of the installation of copies of the Software beyond the number of copies authorized by an agreement between Cellebrite and Buyer; (p) use of Products or Software incorporated into a system, other than as authorized by Cellebrite; or (q) any Products or Software that has been resold or otherwise transferred to a third party by Buyer (any Product or Software affected by the cases in (a)-(q) is referred to hereinafter as an "Excluded Item").

F. **Warranty Limitations.** EXCEPT AS STATED IN THIS WARRANTY, CELLEBRITE, ITS SUBSIDIARIES AND AFFILIATES, SUBCONTRACTORS AND SUPPLIERS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. BUYER'S SOLE AND EXCLUSIVE REMEDY FOR FAILURE OF AN ITEM TO CONFORM WITH ITS SPECIFICATIONS SHALL BE SELLER'S OBLIGATION (i) TO REPAIR OR (ii) TO REPLACE OR, (iii) IF NEITHER (i) NOR (ii) IS COMMERCIALY FEASIBLE, TO CREDIT OR REFUND (AT BUYER'S OPTION) SUCH ITEM AS SET FORTH ABOVE. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY FAILS OF ITS ESSENTIAL PURPOSE.

G. **Repaired or Replaced Products.** Before returning a Product for service, Cellebrite recommends that Buyer back up any data contained in such a Product. IN NO EVENT WILL CELLEBRITE, ITS AFFILIATES OR SUPPLIERS BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY DAMAGES OF ANY KIND WHATSOEVER RELATING TO OR ARISING OUT OF DAMAGE TO, OR LOSS OR CORRUPTION OF, ANY RECORDS, PROGRAMS OR OTHER DATA RESULTING FROM CELLEBRITE'S REPAIR OR REPLACEMENT SERVICES UNDER THIS WARRANTY, OR AS A RESULT OF A FAILURE OR MALFUNCTION OF A PRODUCT.

**Tanya.Delira**

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**From:** Josephine L. Ramirez [josephine.ramirez@da.co.hidalgo.tx.us]  
**Sent:** Thursday, September 13, 2012 9:07 AM  
**To:** 'Martha Salazar'  
**Cc:** 'Tanya.Delira'  
**Subject:** RE: Cellebrite (220985)

Marty,

Paragraph 12 requires the County to indemnify Cellebrite. "To the extent provided for under the Constitution and laws of the State of Texas..." should be added to this paragraph. Otherwise, I approve as to the form of the agreement.

**Josephine Ramirez Solis**  
*Assistant Criminal District Attorney*  
County Affairs Section  
Office of Criminal District Attorney  
Hidalgo County, Texas  
100 N Closner Rm 303  
Edinburg, TX 78539  
(956) 318-2313 ext. 3823  
(956) 318-2079 FAX  
[josephine.ramirez@da.co.hidalgo.tx.us](mailto:josephine.ramirez@da.co.hidalgo.tx.us)

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\*\*\*\*\*

**From:** Martha Salazar [mailto:martha.salazar@co.hidalgo.tx.us]  
**Sent:** Wednesday, September 12, 2012 5:23 PM  
**To:** josephine.ramirez@da.co.hidalgo.tx.us  
**Cc:** 'Tanya.Delira'  
**Subject:** FW: Cellebrite (220985)  
**Importance:** High

Ms. Josephine:  
Please review and comment as to form the a agreement attached. We have also provided you the agenda request with attachments.  
Marty

PS CC for 9-18-12

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**From:** Tanya.Delira [mailto:tanya.delira@co.hidalgo.tx.us]  
**Sent:** Wednesday, September 12, 2012 4:57 PM  
**To:** [martha.salazar@co.hidalgo.tx.us](mailto:martha.salazar@co.hidalgo.tx.us)

**Cc:** 'Myra Montoya'  
**Subject:** Celebrite (220985)

May you please forward to legal for their review.

Thanks!!!