

Agenda Item No. A-4

DATE SUBMITTED 06/9/2025  
 SUBMITTED BY R. ALEJANDRO ESTRADA  
 DATE ACTION REQUIRED 6/18/25

COUNCIL ACTION ☒  
 PUBLIC HEARING REQUIRED ☐  
 RESOLUTION ☐  
 ORDINANCE 1<sup>ST</sup> READING ☐  
 ORDINANCE 2<sup>ND</sup> READING ☐  
 CITY CLERK'S INITIALS ☐

## IMPERIAL CITY COUNCIL AGENDA ITEM

SUBJECT: DISCUSSION/ACTION:

- I. RATIFICATION OF THE AGREEMENTS BETWEEN THE CITY OF IMPERIAL, THE IMPERIAL COUNTY ASSESSOR, AND NOBEL BY THE IMPERIAL CITY COUNCIL.

DEPARTMENT INVOLVED: DEPARTMENT OF INNOVATION & TECHNOLOGY

**BACKGROUND/SUMMARY:**

Under California Government Code Section 6502 et seq., public entities including cities, counties, special districts, and joint agencies are authorized to enter into cooperative agreements. Under this authority, the County of Imperial, in collaboration with nine other public entities, has entered into a Data Service Agreement to support the maintenance of accurate and electronically accessible geographic information.

This agreement establishes a shared-cost model to fund web hosting services for the Imperial County Geographic Information System (ICGIS). By doing so, the participating entities aim to improve the efficiency and effectiveness of local and regional government operations, while also enhancing public access to data and supporting economic development across the region.

**FISCAL IMPACT:**

Web Hosting Agreement (Geo Viewer) \$3,527.76 Annual Fee  
 Five year contract July 01, 2023 through June 30, 2028

Imperial County Service Data Agreement \$218.31 Annual Fee  
 Five year contract July 01, 2023 through June 30, 2028

FINANCE  
INITIALS

VMS

**STAFF RECOMMENDATION:**

It is staffs recommendation to approve the agreements between the City of Imperial, The Imperial County Assessor , and Nobel.

DEPT. INITIALS

[Signature]

**MANAGER'S RECOMMENDATION:**

approve

CITY  
MANAGER's  
INITIALS

Dxtm

**MOTION:**

SECONDED:

AYES:

NAYES:

ABSENT:

APPROVED ☐

DISAPPROVED ☐

REJECTED ☐

DEFERRED ☐

REFERRED TO:

**IMPERIAL COUNTY  
DATA SERVICE AGREEMENT**

This Data Service Agreement ("Agreement") is made and entered into this \_\_\_\_\_, 2023 by and between **COUNTY OF IMPERIAL** ("COUNTY"), a political subdivision of the State of California, and **CITY OF EL CENTRO, CITY OF BRAWLEY, CITY OF IMPERIAL, CITY OF WESTMORLAND, CITY OF CALIPATRIA, CITY OF HOLTVILLE, CITY OF CALEXICO, THE IMPERIAL IRRIGATION DISTRICT, and THE HEBER PUBLIC UTILITIES DISTRICT** (individually "MEMBER" and collectively "MEMBERS"), all municipal entities or public agencies.

WHEREAS, California Government Code Section 6502, et seq. authorizes public entities, including cities, counties, special districts, and joint agencies to enter into agreements; and

WHEREAS, COUNTY and MEMBERS have a mutual interest in developing and maintaining accurate, current and non-duplicated electronically-retrievable geographic information about Imperial County; and

WHEREAS, COUNTY and MEMBERS recognize that a countywide Geographic Information System ("GIS") benefits the citizens of Imperial County by improving the efficiency and effectiveness of local and regional government and enhancing the economic competitiveness of the region; and

WHEREAS, COUNTY and MEMBER recognize that each of them maintains diverse information databases and that combining the information systems will add significantly to the usefulness of a GIS; and

WHEREAS, the COUNTY, pursuant to California Revenue and Taxation Code Section 409, may recover the appropriate costs associated with the reproduction and distribution of the Assessor's assessment roll, parcel maps, and other data.

NOW, THEREFORE, it is agreed by and between the parties that:

1. Term. The effective term of this Agreement shall be July 1, 2023 until June 30, 2028.
2. GIS Services. COUNTY and MEMBERS enter into this Agreement wherein the COUNTY will provide the following GIS services to the MEMBERS:

1           A.    Data Access Service to Geographic Information System Server. These are  
2 necessary for the MEMBERS to gain secure access to the Assessor's data. New members only will pay  
3 COUNTY a one-time fee of \$200 to recover its cost in setting up the computer and Internet startup and  
4 configuration for MEMBER.

5           B.    Firewall Configuration. The COUNTY will configure the COUNTY'S Internet  
6 firewall to allow MEMBER to access the GIS server by File Transfer Protocol ("FTP"). For security  
7 reasons, access will require a public Internet addresses supplied by MEMBER to COUNTY, and a GIS  
8 user account provided by COUNTY to MEMBER.

9           C.    File Transfer Protocol Specification.

- 10           i.    FTP is a method for transferring files over the Internet. MEMBER will  
11               use this as the primary method of accessing GIS data.  
12           ii.   COUNTY agrees to provide: 1) a recommendation for the FTP client  
13               software to connect to the GIS server and 2) a single point of contact.  
14           iii.   MEMBERS agree to provide: 1) a public Internet address that will be  
15               used to connect to the GIS server and 2) a single point of contact.  
16           iv.   MEMBERS must acquire FTP software to be configured to GIS  
17               specifications, an Internet connection, and any other item or device  
18               necessary to access the GIS server over the Internet.

19           D.    Data Management. This service manages the GIS server. It is provided by  
20 COUNTY to the MEMBERS at no charge. Data Management Service excludes maintenance of the  
21 data.

22           E.    Server Maintenance. COUNTY provides maintenance and support required to  
23 operate the GIS server and enable the MEMBERS access to data stored thereon.

24           F.    Data Storage. COUNTY provides data storage space on the GIS server for all of  
25 the data it supports and manages.

26           G.    Data Back-up. COUNTY provides backup service for data stored on GIS the  
27 server.

28           H.    Security. COUNTY provides a secure, unique FTP user account for MEMBER

1 and specifications for secure connection to the GIS system. MEMBER is responsible for ensuring the  
2 security of its GIS account information.

3 I. Data Maintenance. This includes maintenance of the database that is provided  
4 by the Assessor and stored on the GIS server. The available data on the GIS server is described in the  
5 Data Management Plan and includes services necessary for the MEMBER to access data including the  
6 GIS basemap, the roll, maps and other GIS data.

7 3. Compensation. MEMBER'S fees, subject to Imperial County Ordinance Section  
8 2.24.030, are payable annually to Imperial County and described in more detail in the "DATA COST"  
9 column in **Exhibit "A"**, as follows:

10	City of El Centro	\$ 710.09
11	City of Calexico	\$ 492.23
12	City of Holtville	\$ 111.75
13	City of Brawley	\$ 527.30
14	City of Imperial	\$ 218.31
15	City of Calipatria	\$ 140.51
16	City of Westmorland	\$ 78.49
17	County of Imperial	\$ 2,399.57
18	Imperial Irrigation District	\$ 8,000.00
19	<u>Heber Public Utility District</u>	<u>\$ 106.21</u>
20	Total	\$12,784.46

21 4. GIS Advisory Committee. A GIS Advisory Committee shall be formed to develop  
22 common standards for the county-wide GIS. Standards shall include, but will not be limited to:  
23 tracking the source of information on the GIS (metadata); establishing minimum levels of resolution  
24 and accuracy; establishing consistent naming of layers; establishing consistent data types; ensuring the  
25 data is mutually transferable and useable; determining how the data will be transferred and how often  
26 data will be updated.

27 5. Governmental Purpose. COUNTY and MEMBERS agree any of them may use the  
28 data supplied by themselves and other MEMBER public entities or agencies for any legitimate



1 governmental use and purpose. The parties further agree that each grants to the other a nonexclusive,  
2 nontransferable license for the sole purpose of carrying out legitimate governmental purposes.  
3 "Legitimate governmental purpose" includes, but is not limited to: hard copy maps, printed reports,  
4 and manipulated and/or processed data files incorporating MEMBER'S data such that the original  
5 source data cannot be reconstructed. "Legitimate governmental purpose" shall not include selling,  
6 trading or otherwise transferring the data, data system or other forms of electronic information to any  
7 other person or entity for profit. MEMBER agrees to display the following disclaimer on all hard copy  
8 maps produced from COUNTY data:

9 *This information was created by the Imperial County Assessor's Office for the purpose of*  
10 *aiding in the performance and duties of the Assessor's Office. The information and services*  
11 *included in or available through the GIS data may include inaccuracies or typographical*  
12 *errors. Imperial County makes no representation about the suitability, reliability, availability,*  
13 *timeliness, or accuracy of its GIS data for any purpose. The GIS data and information are*  
14 *provided "as is" without warranty of any kind. Imperial County disclaims all warranties and*  
15 *conditions with regard to the services, including all implied warranties and conditions of*  
16 *merchantability of fitness for a particular purpose, title and non-infringement.*

17 6. Altering The Data of Another Party. COUNTY and MEMBERS agree that no party  
18 may give, sell, copy, transfer, or alter the data of any other party without the express prior written  
19 authorization of the affected party/parties. All manipulated and/or processed data sets shall be limited  
20 to a reasonable scope and size based on a defined project.

21 7. Proprietary Interests. COUNTY and MEMBERS shall confer in good faith to protect  
22 and preserve their respective proprietary interest in the data shared within the scope of this Agreement,  
23 during this Agreement, and shall survive termination of this Agreement.

24 8. Compliance With California Gov. Code § 6254.21. MEMBERS agree and shall  
25 comply with the provisions of California Gov. Code Section 6254.21 which provides that a state or  
26 local agency may not post the home address or telephone number of any elected or appointed official  
27 on the internet without first obtaining the written permission of the individual.

28 9. Liability and Indemnification. Each party agrees to indemnify, defend and hold  
harmless, its agent, officers, and employees from and against all liability, expense, and claims for  
damages arising from the sole conduct and services provided hereunder by the other party to the extent  
that such death, injury or damage resulted from the sole negligence or willful misconduct of the other

1 party, its agent, officers or employees. No party is liable to any other party for loss or inaccuracy of  
2 GIS data. Each party is encouraged to have current backup storage of all compiled GIS data and other  
3 relevant information. Further, no party is liable to any other party for any damage to information or  
4 equipment resulting from the transfer of data from one medium to another.

5 10. Notices. Any party may, by written notice to the others, change its address where notice  
6 shall be made. All notices are effective upon receipt. All notices shall be in writing and addressed or  
7 delivered as follows:

8  
9 COUNTY:

10 Imperial County Assessor  
11 940 Main Street, Suite 115  
El Centro, CA 92243

12 MEMBERS:

13 City of El Centro  
1275 W, Main St.  
14 El Centro, CA 92243

City of Calipatria  
125 N. Park Ave.  
Calipatria, CA 92233

15 City of Holtville  
121 W 5<sup>th</sup>  
16 Holtville, CA 92250

City of Westmorland  
355 S Center  
Westmorland, CA 92281

17 City of Brawley  
18 400 Main Street  
19 Brawley, CA 92227

City of Imperial  
420 S. Imperial Ave.  
Imperial, CA 92251

20 City Manager  
21 City of Calexico  
608 Heber Ave.  
22 Calexico, CA 9223

Imperial Irrigation District  
P. O. Box 937  
333 E. Barioni Blvd.  
Imperial, CA 92251

23 Heber Public Utility District  
1078 Dogwood Road, Suite 103  
24 P. O. Box H  
25 Heber, CA 92249

26 11. Termination and Cancellation.

27 A. Termination By County. This Agreement is subject to immediate termination by  
28 COUNTY upon material breach of this Agreement by MEMBER, and COUNTY shall have sole

1 discretion to determine if a breach has, in fact, occurred. MEMBER shall be given written notice of  
2 said breach, and its access to the GIS will be immediately denied. The remaining MEMBERS will not  
3 be affected by such termination. In the event of termination, MEMBER forfeits any paid fees.

4 B. Cancellation By Party. Any party may cancel this Agreement, without cause, by  
5 providing the other parties thirty (30) day's prior, written notice. In the event of cancellation, the party  
6 forfeits any paid fees.

7 12. Governing Law and Venue. This Agreement shall be governed by the laws of the State  
8 of California. It is made and entered into in Imperial County, California. To the extent permitted by  
9 law, any action brought by either party with respect to this Agreement shall be brought in court of  
10 competent jurisdiction within said COUNTY.

11 13. Attorney Fees. If any party brings an action to enforce the terms or declare rights  
12 hereunder, the prevailing party to any such action, on trial or appeal, shall be entitled to its reasonable  
13 attorney's fees to be paid by the losing party as fixed by the court.

14 14. Binding. This Agreement shall be binding upon the heirs, successors, and assigns of  
15 the parties hereto.

16 15. Modification. No modification, waiver, amendment, discharge, or change of this  
17 Agreement shall be valid unless the same is in writing and signed by all parties, except that COUNTY  
18 may unilaterally admit a new MEMBER.

19 16. Additional MEMBERS. A new public entity or agency desiring to enter into this  
20 Agreement may do so upon the written consent of COUNTY, and will be subject to the terms and  
21 conditions of this Agreement. COUNTY will send written notice of the new MEMBER, along with its  
22 address for notice, to all other MEMBERS.

23 17. Counterparts. This Agreement may be executed in counterparts.

24 18. Severability. If any provision in this Agreement is held by a court of competent  
25 jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue  
26 in full force without being impaired or invalidated in any way.

27 19. Entire Agreement. This Agreement contains the entire contract among the parties  
28 relating to the transactions contemplated herein and supersedes all prior or contemporaneous



1 agreements, understandings, provisions, negotiations, representations, or statements, either written or  
2 oral.

3 20. Authority. Each MEMBER warrants that the party executing this Agreement on behalf  
4 of MEMBER is authorized to do so by MEMBER's legislative or governing body, consistent with  
5 California Gov. Code §6502.

6 IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written  
7 above.

8 **COUNTY OF IMPERIAL:**

9  
10  
11 \_\_\_\_\_  
12 By: JOHN HAWK  
Chairman of the Board of Supervisors

13 **ATTEST:**

14  
15 \_\_\_\_\_  
16 By: Cynthia Medina, Assistant  
Clerk of the Board of Supervisors

17 **APPROVED AS TO CONTENT:**

18  
19 \_\_\_\_\_  
20 By: Robert Menvielle  
Imperial County Assessor

21 **APPROVED AS TO FORM:**

22 ERIC HAVENS,  
23 COUNTY COUNSEL

24  
25  
26 \_\_\_\_\_  
27 By: Andrew Briseno  
Deputy County Counsel



**MEMBERS:**

**CITY OF EL CENTRO:**

By: Authorized Agent

**CITY OF HOLTVILLE:**

By: Authorized Agent

**CITY OF CALEXICO:**

By: Authorized Agent

**CITY OF BRAWLEY:**

By: Authorized Agent

**CITY OF IMPERIAL:**

By: Authorized Agent

*Cemino H. Monta*

**CITY OF CALIPATRIA:**

By: Authorized Agent

**CITY OF WESTMORLAND:**

By: Authorized Agent

**IMPERIAL IRRIGATION DISTRICT:**

By: Authorized Agent

**HEBER PUBLIC UTILITY DISTRICT:**

By: Authorized Agent

**MEMBERS:**

**CITY OF EL CENTRO:**

By: Authorized Agent

**CITY OF HOLTVILLE:**

By: Authorized Agent

**CITY OF CALEXICO:**

By: Authorized Agent

**CITY OF BRAWLEY:**

By: Authorized Agent

**CITY OF IMPERIAL:**

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**CITY OF CALEXICO:**

By: Authorized Agent

**CITY OF IMPERIAL:**

By: Authorized Agent

**CITY OF WESTMORLAND:**

By: Authorized Agent

**HEBER PUBLIC UTILITY DISTRICT:**

By: Authorized Agent

**CITY OF HOLTVILLE:**

By: Authorized Agent

**CITY OF BRAWLEY:**

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**CITY OF CALIPATRIA:**

By: Authorized Agent

**IMPERIAL IRRIGATION DISTRICT:**

By: Authorized Agent



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**AGREEMENT**

THIS AGREEMENT, hereinafter "AGREEMENT," is made and entered into this \_\_\_\_\_ 2023, by and between the COUNTY OF IMPERIAL, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and CITY OF EL CENTRO, CITY OF BRAWLEY, CITY OF IMPERIAL, CITY OF WESTMORLAND, CITY OF CALIPATRIA, CITY OF HOLTVILLE, CITY OF CALEXICO, IMPERIAL IRRIGATION DISTRICT, HEBER PUBLIC UTILITY DISTRICT, and STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION ("CALTRANS"), individually and collectively referred to as "MEMBER" and "MEMBERS" respectively, and NOBEL SYSTEMS, INC., an active California Corporation, hereinafter referred to as "CONSULTANT".

**WITNESSETH**

WHEREAS, COUNTY's Assessor requires the services of a CONSULTANT to perform web hosting services in connection with the Imperial County Geographic Information System ("ICGIS") for itself and the MEMBERS; and

WHEREAS, COUNTY is authorized to enter into this AGREEMENT under the provisions of California Government Code Section 31000; and

WHEREAS, COUNTY is desirous of engaging CONSULTANT for the performance of said services as are provided for herein and CONSULTANT is willing to accept such engagement.

NOW, THEREFORE, COUNTY hereby engages and CONSULTANT hereby accepts upon the terms and conditions set forth herein.

**1. PARTIES TO AGREEMENT**

1.1. This AGREEMENT is by and between COUNTY, MEMBERS and CONSULTANT.

1 1.2. It is not the intent of the parties to this AGREEMENT to create, and nothing in this  
2 AGREEMENT shall be construed as creating a joint venture or partnership or any other  
3 relationship between the parties. Neither the COUNTY, the MEMBERS, nor CONSULTANT  
4 authorizes the others to act as its agent or representative.  
5

6 2. WORK TO BE PERFORMED BY CONSULTANT

7 2.1. CONSULTANT shall perform and be responsible for providing the services described in  
8 Exhibit "B" which is attached hereto and incorporated by reference as though fully set forth herein.  
9

10 2.2. Said work shall be completed in a lawful, professional, expeditious and timely manner.

11 2.3. CONSULTANT understands that all data supplied by COUNTY or MEMBERS and  
12 hosted by CONSULTANT shall be maintained on the COUNTY GIS Server (ICGIS)  
13 CONSULTANT shall upload or link to ICGIS to host data. Further if CONSULTANT contracts  
14 with COUNTY or MEMBER for additional services which involve loading data or layers to the  
15 system (data or layers available for view by all MEMBERS and COUNTY only) such input shall  
16 also be loaded to ICGIS. Layers or data solely for use by an individual MEMBER or COUNTY  
17 and not intended to be shared with any other MEMBER or COUNTY in any way, is not required  
18 to be maintained on ICGIS.  
19

20 3. TERM OF AGREEMENT

21 This AGREEMENT shall become effective on July 1, 2023 and remain in effect until June 30,  
22 2028.  
23

24 4. COMPENSATION

25 4.1. CONSULTANT'S compensation for the services is required to be performed under this  
26 AGREEMENT shall not exceed Forty Four Thousand Dollars (\$49,280.00) per year. MEMBERS  
27 and COUNTY shall contribute in the following amounts:  
28

1	Member:	Data Host Cost:
2	City of El Centro	\$ 5,998.34
3	City of Calexico	4,588.97
4	City of Holtville	847.58
5	City of Brawley	3,957.90
6	City of Imperial	3,527.76
7	City of Calipatria	670.56
8	City of Westmorland	369.51
9	Imperial Irrigation District	7,956.21
10	CalTrans	7,957.30
11	Imperial County	12,461.01
12	Heber Public Utility District	944.59
13	Total	\$49,279.73

17  
18 A more detailed description is included in the column identified as "NOBEL - Data Host Cost"  
19 and the ancillary textual explanation appearing in the attached Exhibit "A", incorporated by this  
20 reference as though fully set forth herein.

21 4.2. The members listed in 4.1 are governmental entities that will have access to the ICGIS data  
22 upon payment of the web-hosting fee to the County of Imperial, Office of the County Assessor.  
23 Each member shall pay the COUNTY Assessor the required fee within thirty (30) days of invoice.

24  
25 ALL MEMBERS understand that each fee must be paid prior to being able to access the  
26 ICGIS data. The COUNTY shall contribute \$12,461.01 upon execution of this AGREEMENT by  
27 COUNTY and CONSULTANT. If any MEMBER fails or refuses to pay its web-hosting fee



1 within the required thirty-day period, each of the other MEMBERS shall pay the fee on a  
2 proportional basis in the same fashion as the original fee amount was calculated. However,  
3 COUNTY'S contribution remains and shall not exceed \$12,461.01 and COUNTY is not obligated  
4 to pay any MEMBER'S fee, proportionally, wholly, or in any other way.  
5

6 4.3. CONSULTANT acknowledges and agrees that COUNTY'S total obligation pursuant to  
7 this agreement shall not exceed \$12,461.01.

8 4.4. CONSULTANT acknowledges COUNTY is under no obligation to compensate  
9 CONSULTANT for services rendered under this AGREEMENT not authorized by COUNTY.  
10

11 4.5. If COUNTY requires work in addition to that defined in the Scope of Work,  
12 CONSULTANT shall provide a cost estimate and written description of the additional work  
13 needed to perform such services. Compensation and the time for completion of such additional  
14 services must be negotiated and approved in writing by the COUNTY prior to the commencement  
15 of any such services.  
16

## 17 5. REPRESENTATIONS BY CONSULTANT

18 5.1. CONSULTANT understands and agrees that COUNTY is relying upon CONSULTANT'S  
19 representations that it will provide services provided herein to the standard of care ordinarily  
20 exercised in CONSULTANT'S profession.

21 5.2. CONSULTANT represents and warrants that it is a lawful entity possessing all required  
22 licenses and authorities to do business in the State of California and perform all aspects of this  
23 AGREEMENT.  
24

25 5.3. CONSULTANT represents and warrants that the people executing this AGREEMENT on  
26 behalf of CONSULTANT has the authority of CONSULTANT to sign this AGREEMENT and  
27  
28

1 bind CONSULTANT to the performance of all duties and obligations assumed by CONSULTANT  
2 herein.

3 5.4. CONSULTANT represents and warrants that any employee, contractor and agent who will  
4 be performing any of the duties and obligations of CONSULTANT herein possess all required  
5 licenses and authorities, as well as the experience and training, to perform such tasks.  
6

7 5.5. CONSULTANT represents and warrants that the subject services shall be performed  
8 exclusively by CONSULTANT. Any agreements to the contrary must be consented to in writing  
9 by COUNTY.  
10

11 5.6. CONSULTANT represents that the services provided herein shall be performed in a  
12 professional and lawful manner.

13 5.7. CONSULTANT represents and warrants that the allegations contained in Exhibit "B"  
14 attached hereto are true and correct.

15 5.8. CONSULTANT understands that COUNTY considers the representations made herein to  
16 be material and would not enter into this AGREEMENT with CONSULTANT if such  
17 representations were not made.  
18

19 5.9. CONSULTANT represents and warrants that all reports, analyses or other documents  
20 developed under this AGREEMENT shall become the exclusive property of COUNTY and shall  
21 not be distributed by CONSULTANT without COUNTY'S written consent.  
22

23 5.10. CONSULTANT represents and warrants that any errors in its services provided shall be  
24 corrected at no additional charge to COUNTY.

## 25 6. RETENTION AND ACCESS OF BOOKS AND RECORDS

26 6.1. CONSULTANT represents and warrants that it shall maintain books, records, documents,  
27 reports and other materials developed under this AGREEMENT as follows:  
28

1 6.1.1. CONSULTANT shall maintain all ledgers, books of accounts, invoices, vouchers, canceled  
2 checks, and other records relating to CONSULTANT'S charges for services or expenditures and  
3 disbursements charged to COUNTY for a minimum period of five (5) years, or for any longer  
4 period required by law, from the date of final payment to CONSULTANT pursuant to this  
5 AGREEMENT.  
6

7 6.1.2. CONSULTANT shall maintain all reports, documents and records, which demonstrate  
8 performance under this AGREEMENT for a minimum period of five (5) years, or for any longer  
9 period required by law, from the date of termination or completion of this AGREEMENT.  
10

11 6.1.3. Any records or documents required to be maintained by CONSULTANT pursuant to this  
12 AGREEMENT shall be made available to COUNTY for inspection or audit, at any time during  
13 CONSULTANT'S regular business hours provided COUNTY provides CONSULTANT with  
14 seven (7) days advanced written or oral notice. Copies of such documents shall at no cost to  
15 COUNTY, be provided to IMPERIAL COUNTY for inspection at CONSULTANT'S address  
16 indicated for receipt of notices under this AGREEMENT.  
17

18 6.2. CONSULTANT represents and warrants that it has not been engaged by, nor will it be  
19 engaged by and owes no duty of performance to any other person or entity, which would constitute  
20 a conflict. For breach or violation of this warranty COUNTY shall, amongst other remedies at  
21 law, have the right to terminate this AGREEMENT without liability, or at its sole discretion, to  
22 deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of  
23 such fee, commission, percentage brokerage fee, gift or contingent fee paid or received from  
24 another entity or person.  
25

26 7. INDEMNIFICATION  
27  
28



1 CONSULTANT shall defend, indemnify and hold harmless COUNTY and, MEMBERS  
2 from any and all claims, damages or loss arising out of the performance by CONSULTANT, its  
3 agents or employees of this AGREEMENT, including the active or passive negligence of  
4 CONSULTANT, its agents or employees, or any obligation imposed thereby, or any act of or  
5 failure to act by CONSULTANT.  
6

7 8. INDEPENDENT CONTRACTOR

8 8.1. In all situations and circumstances arising out of the terms and conditions of the  
9 AGREEMENT, CONSULTANT is an independent contractor, and as an independent contractor,  
10 the following shall apply:  
11

12 8.2. CONSULTANT is not an employee of COUNTY and is only responsible for the  
13 requirements and results specified by this AGREEMENT or any other agreement.

14 8.3. CONSULTANT shall be responsible to COUNTY only for the requirements and  
15 results specified by this AGREEMENT and except as specifically provided in this AGREEMENT,  
16 shall not be subject to COUNTY'S control with respect to the physical actions or activities of  
17  
18 CONSULTANT in fulfillment of the requirements of this AGREEMENT.

19 8.4. CONSULTANT is not, and shall not be, entitled to receive from, or through, COUNTY,  
20 and COUNTY shall not provide, or be obligated to provide, CONSULTANT with Worker's  
21 Compensation coverage or any other type of employment or worker insurance or benefit coverage  
22 required or provided by any Federal, State or local law or regulation for, or normally afforded to,  
23 an employee of COUNTY.  
24

25 8.5. CONSULTANT shall not be entitled to have COUNTY withhold or pay, and COUNTY  
26 shall not withhold or pay, on behalf of CONSULTANT, any tax or money relating to the Social  
27 Security Old Age Pension Program, Social Security Disability Program, or any other type of  
28

1 pension, annuity, or disability program required or provided by any Federal, State, or local law or  
2 regulation.

3 8.6. CONSULTANT shall not be entitled to participate in, or receive any benefit from, or make  
4 any claim against any COUNTY fringe benefit program, including, but not limited to, COUNTY'S  
5 pension plan, medical and health care plan, dental and eye care plan, life insurance plan, or any  
6 other type of benefit program, plan, or coverage designated for, provided to, or offered to  
7 COUNTY'S employees.  
8

9 8.7. COUNTY shall not withhold or pay, on behalf of CONSULTANT, any Federal, State, or  
10 local tax, including, but not limited to, any personal income tax, owed by CONSULTANT.  
11

12 8.8. CONSULTANT is, and at all times during the term of this AGREEMENT, shall represent  
13 and conduct itself as an independent contractor, not as an employee of COUNTY.

14 8.9. CONSULTANT shall not have the authority, express or implied, to act on behalf of, bind  
15 or obligate COUNTY in any way without the written consent of COUNTY.  
16

## 17 9. INSURANCE REQUIREMENTS

18 9.1. CONSULTANT, hereby agrees at its sole cost and expense, to obtain and maintain in  
19 full force during the entire term of this AGREEMENT and any extended term thereof the following  
20 types of insurance:

21 9.1.1. Commercial General Liability coverage in the minimum amount of one million dollars  
22 (\$1,000,000) combined single limit to any one person ("CSL") and two million dollars  
23 (\$2,000,000) aggregate for any one accident, including personal injury, death and property  
24 damage.  
25

26 9.1.2. Automobile Liability coverage in a minimum amount of one million dollars (\$1,000,000)  
27 for bodily injury and property damage including owned, non-owned and hired vehicles.  
28

1 9.1.3. To the extent required by law, Workers' Compensation coverage, in full compliance with  
2 California statutory requirements for all employees of CONSULTANT and Employer's Liability  
3 in the minimum amount of one million dollars (\$1,000,000).

4 9.1.4. Professional Liability insurance in a minimum amount of one million dollars (\$1,000,000)  
5 per claim and annual aggregate.

6 9.2. Special Insurance Requirements. All insurance required under paragraph 9 shall:

7 9.2.1. Be procured from an insurer authorized to do business in California.

8 9.2.2. Be primary coverage as respects COUNTY and any insurance or self insurance maintained  
9 by COUNTY shall be in excess of CONSULTANT'S insurance coverage and shall not contribute  
10 to it.

11 9.2.3. Name COUNTY as an additional insured on all policies and provides that COUNTY may  
12 recover for any loss suffered by COUNTY by reason of CONSULTANT'S negligence.

13 9.2.4. Not be canceled, non-renewed or reduced in scope of coverage until after thirty (30) days  
14 written notice has been given to the COUNTY. However, CONSULTANT may not terminate  
15 such coverage until it provides COUNTY with proof that equal or better insurance has been  
16 secured and is in place. Cancellation or change without the prior written consent of the COUNTY  
17 shall, at the option of the COUNTY, be grounds for termination of this AGREEMENT.

18 9.3. Additional Insurance Requirements.

19 9.3.1. COUNTY is to be notified immediately of all insurance claims. COUNTY is also to be  
20 notified if any aggregate insurance limit is exceeded.

21 9.3.2. Deposit of Insurance Policy. Promptly on issuance, reissuance, or renewal of any insurance  
22 policy required by this AGREEMENT, the CONSULTANT shall, if requested by COUNTY,  
23 cause to be given to COUNTY satisfactory evidence that insurance policy premiums have been  
24



1 paid together with a duplicate copy of the policy or a certificate evidencing the policy and executed  
2 by the insurance company issuing the policy or its authorized agent.

3 9.3.3. CONSULTANT agrees to provide COUNTY with the following insurance documents  
4 on or before the effective date of this AGREEMENT:  
5

6 9.3.3.1. Complete copies of certificates of insurance for all required coverages including  
7 Additional Insured Endorsements and 30 days' Notice of Cancellation Clause endorsements.

8 9.3.3.2. The documents enumerated in Paragraph 9 shall be sent to the following:

9 County of Imperial  
10 Risk Management Department  
11 940 Main Street, Ste. 101  
12 El Centro, CA 92243

13 And

14 Imperial County Assessor  
15 Attention: Assessor  
16 940 Main Street, Suite 115  
17 El Centro, CA 92243

18 9.3.4. Nothing in this, or any other provision of this AGREEMENT, shall be construed to  
19 preclude the CONSULTANT from obtaining and maintaining any additional insurance policies in  
20 addition to those required pursuant to this AGREEMENT.

21 9.3.5. The comprehensive or commercial general liability shall contain a provision of  
22 endorsements stating that such insurance:

- 23 i. Includes contractual liability.
- 24 ii. Does not contain a "pro rata" provision which looks to limit the insurer's  
25 liability to the total proportion that its policy limits bear to the total coverage  
26 available to the insured.  
27

- iii. Does not contain an "excess only" clause, which requires the exhaustion of other insurance prior to providing coverage.
- iv. Does not contain an "escape clause" which extinguishes the insurer's liability if the loss is covered by other insurance.
- v. Includes COUNTY as an additional insured.
- vi. States that it is primary insurance and regards COUNTY as an additional insured and contains a cross-liability or severability of interest clause.

10. DEFAULT, TERMINATION and WITHDRAWAL.

10.1. Consultant's Default. If CONSULTANT fails or refuses to perform any provision, covenant, or condition to be kept or performed by CONSULTANT under this AGREEMENT, including those in Exhibit "B" under this AGREEMENT, COUNTY, prior to exercising any of its rights or remedies, shall give written notice to CONSULTANT of such default, specifying in said notice the nature of such default and CONSULTANT shall have thirty (30) days from receipt of such notice to cure said default. If such default is not cured within said thirty (30) day period, then COUNTY may in its sole discretion terminate this AGREEMENT and/or pursue those remedies available under the law at the time this AGREEMENT is executed as well as any future remedies that are created.

10.2. County's Default. If COUNTY fails or refuses to perform any provision, covenant or condition to be kept or performed by COUNTY under this AGREEMENT, CONSULTANT, prior to exercising any of its rights or remedies, shall give written notice to COUNTY of such default, specifying in said notice the nature of such default and COUNTY shall have thirty (30) days from receipt of such notice to cure said default. If such default is not cured within said thirty (30) day period, then CONSULTANT may in its sole discretion terminate this AGREEMENT and/or

1 pursue those remedies available under the law at the time this AGREEMENT is executed as well  
2 as any future remedies that are created.

3 10.3. Termination Clause. Notwithstanding Paragraph 10.1, this AGREEMENT is subject to  
4 termination by COUNTY as to CONSULTANT without cause by COUNTY upon thirty (30) days  
5 prior written notice. In the event of termination, CONSULTANT shall return any fees received  
6 but unearned, proportionally, within thirty (30) days of the date of termination.

7  
8 10.4. MEMBERS may withdraw from this AGREEMENT by giving all other parties to this  
9 AGREEMENT thirty (30) days prior written notice. In the event of withdrawal, MEMBERS  
10 forfeit any fees paid.

11  
12 11. ASSIGNMENTS AND SUBCONTRACTS.

13 11.1. Neither this AGREEMENT nor any rights, duties or obligations hereunder shall be  
14 assignable and/or subcontracted by CONSULTANT without the prior written consent of  
15 COUNTY.

16  
17 11.2. COUNTY may demand such assurances, including financial assurances, modification of  
18 this AGREEMENT, or such other requirements as, in its sole discretion, it deems advisable, as a  
19 condition to granting its consent to any assignee or subcontractor hereunder. Nothing herein shall  
20 be construed as requiring COUNTY to grant such approval if COUNTY, in its sole opinion, deems  
21 such grant of consent to be not in the best interests of COUNTY.

22  
23 11.3. Consent by COUNTY to an assignment or subcontract shall not release CONSULTANT  
24 from its primary liability under this AGREEMENT, and COUNTY'S consent to one assignment  
25 or subcontract, shall not be deemed a consent to other assignments and/or subcontracts.

26 11.4. Any attempt by the CONSULTANT to assign or otherwise transfer any interest in this  
27 AGREEMENT without obtaining prior written consent of COUNTY shall be void.

12. BINDING

This AGREEMENT shall be binding upon the heirs, successors, assigns and subcontractors of the Parties hereto.

13. NOTICES

13.1. Any notice by either party to the other shall be personally delivered to the party or sent by certified mail, return receipt requested, to the addresses set forth below:

CONSULTANT:

COUNTY:

President  
Nobel Systems, Inc.  
436 E Vanderbilt Way  
San Bernardino, CA 92408

Imperial County Assessor  
940 Main Street, Suite 115  
El Centro, CA 92243

MEMBERS:

City of El Centro  
1275 W. Main St.  
El Centro, CA 92243

City of Calipatria  
125 N. Park Ave.  
Calipatria, CA 92233

City of Holtville  
121 W. 5th  
Holtville, CA 92250

City of Westmorland  
355 S. Center  
Westmorland, CA 92281

City of Brawley  
400 Main Street  
Brawley, CA 92227

City of Imperial  
420 S. Imperial Ave.  
Imperial, CA 92251

City Manager  
City of Calexico  
608 Heber Ave.  
Calexico, CA 92231

Imperial Irrigation District  
P. O. Box 937  
333 E. Barioni Blvd.  
Imperial, CA 92251

State of California  
Department of Transportation  
District 11, MS-50  
2829 Juan Street  
San Diego, CA 92110

Heber Public Utility District  
1078 Dogwood Road, Suite 103  
P. O. Box H  
Heber, CA 92249



1 13.2. Either party may change its address for notice by providing written notice to the other  
2 parties in accordance with Paragraph 13.1. Notices shall be deemed effective on the date of  
3 delivery.

4  
5 14. ENTIRE AGREEMENT

6 This AGREEMENT contains the entire contract between COUNTY, MEMBERS and  
7 CONSULTANT relating to the transactions contemplated hereby and supersedes all prior or  
8 contemporaneous agreements, understandings, provisions, negotiations, representations, or  
9 statements, either written or oral.

10  
11 15. MODIFICATION

12 No modification, waiver, amendment, discharge, or change of this AGREEMENT shall be valid  
13 unless the same is in writing and signed by all parties.

14 16. PARTIAL INVALIDITY

15 If any provision in this AGREEMENT is held by a court of competent jurisdiction to be invalid,  
16 void, or unenforceable, the remaining provisions will nevertheless continue in full force without  
17 being impaired or invalidated in any way.

18  
19 17. WAIVER

20 No waiver of any breach or of any of the covenants or conditions of this AGREEMENT shall be  
21 construed to be a waiver of any other breach or to be consent to any further or succeeding breach  
22 of the same or any other covenant or condition.

23  
24 18. CHOICE OF LAW

25 This AGREEMENT shall be governed by the laws of the State of California. This AGREEMENT  
26 is made and entered into in Imperial County, California. To the extent permitted by law, any action  
27

1 brought by any party with respect to this AGREEMENT shall be brought in a court of competent  
2 jurisdiction within said County.

3 19. ATTORNEY'S FEES

4 If a party herein brings an action to enforce the terms thereof or declare rights hereunder, the  
5 prevailing party in any such action, on trial or appeal, shall be entitled to its reasonable attorney's  
6 fees to be paid by the losing party as fixed by the court.  
7

8 20. AUTHORITY

9 20.1. Each of the individuals executing this AGREEMENT on behalf of CONSULTANT,  
10 COUNTY and MEMBERS represents and warrants that:

11 20.1.1. He or she is duly authorized to execute and deliver this AGREEMENT on behalf of  
12 CONSULTANT, COUNTY or MEMBER as applicable;

13 20.1.2. Such execution and delivery on behalf of CONSULTANT is in accordance with the terms  
14 of the Articles of Incorporation, By-Laws or Resolutions of CONSULTANT; and

15 20.1.3. Such execution and delivery on behalf of COUNTY is duly authorized by the Board of  
16 Supervisors and within the authority of the signatory identified below.  
17

18 20.1.4. MEMBERS warrant that the party executing this Agreement on behalf of MEMBER is  
19 authorized to do so by MEMBER'S legislative or governing body, consistent with California Gov.  
20 Code §6502.  
21

22 21. COUNTERPARTS

23 This AGREEMENT may be executed in counterparts.  
24

25 22. REVIEW OF AGREEMENT TERMS

26 This AGREEMENT has been reviewed and revised by legal counsel for both COUNTY and  
27 CONSULTANT, and no presumption or rule that ambiguities shall be construed against the  
28

1 drafting party shall apply to the interpretation or enforcement of the same or any subsequent  
2 amendments thereto.

3 IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed the  
4 day and year first above written.  
5

6 COUNTY OF IMPERIAL

NOBEL SYSTEMS, INC.  
a California Corporation

9 \_\_\_\_\_  
10 By JOHN HAWK  
Chairman of the Board of Supervisors

\_\_\_\_\_  
By: Michael Samuel, President

11 ATTEST:

12  
13 \_\_\_\_\_  
14 By: Cynthia Medina, Assistant  
Clerk of the Board of Supervisors  
15

16 APPROVED AS TO FORM:

17 COUNTY COUNSEL  
18 Eric Havens  
19

20 \_\_\_\_\_  
21 By: Andrew Briseno  
Deputy County Counsel  
22

23 APPROVED AS TO FORM AND CONTENT:

24  
25 CITY OF EL CENTRO:

CITY OF HOLTVILLE:

26  
27 \_\_\_\_\_  
By: Authorized Agent

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By: Authorized Agent

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CITY OF CALEXICO:

CITY OF BRAWLEY:

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By: Authorized Agent

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By: Authorized Agent

CITY OF IMPERIAL:

CITY OF CALIPATRIA:

*Demis H. Monla*  
\_\_\_\_\_  
By: Authorized Agent

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By: Authorized Agent

CITY OF WESTMORLAND:

IMPERIAL IRRIGATION DISTRICT:

\_\_\_\_\_  
By: Authorized Agent

\_\_\_\_\_  
By: Authorized Agent

STATE OF CALIFORNIA  
DEPARTMENT OF  
TRANSPORTATION:

HEBER PUBLIC UTILITY DISTRICT:

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By: Authorized Agent

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By: Authorized Agent



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CITY OF CALEXICO:

CITY OF BRAWLEY:

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By: Authorized Agent

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By: Authorized Agent

CITY OF IMPERIAL:

CITY OF CALIPATRIA:

*Alvin H. Monta*  
\_\_\_\_\_  
By: Authorized Agent

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By: Authorized Agent

CITY OF WESTMORLAND:

IMPERIAL IRRIGATION DISTRICT:

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By: Authorized Agent

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By: Authorized Agent

STATE OF CALIFORNIA  
DEPARTMENT OF  
TRANSPORTATION:

HEBER PUBLIC UTILITY DISTRICT:

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By: Authorized Agent

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By: Authorized Agent

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CITY OF CALEXICO:

\_\_\_\_\_  
By: Authorized Agent

CITY OF IMPERIAL:

*Dennis H. Monta*  
By: Authorized Agent

CITY OF WESTMORLAND:

\_\_\_\_\_  
By: Authorized Agent

STATE OF CALIFORNIA  
DEPARTMENT OF  
TRANSPORTATION:

\_\_\_\_\_  
By: Authorized Agent

CITY OF BRAWLEY:

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By: Authorized Agent

CITY OF CALIPATRIA:

\_\_\_\_\_  
By: Authorized Agent

IMPERIAL IRRIGATION DISTRICT:

\_\_\_\_\_  
By: Authorized Agent

HEBER PUBLIC UTILITY DISTRICT:

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By: Authorized Agent