

AGREEMENT BETWEEN COMMAND SOURCING, INC. AND YAMHILL COUNTY

THIS AGREEMENT for products and services ("Agreement") is entered into by and between Yamhill County, a political subdivision of the State of Oregon, acting by and through the Yamhill County Sheriff's Office ("COUNTY"), and Command Sourcing, Inc., a California corporation, located at 6100 Horseshoe Bar Rd., STE A # 228, Loomis, CA, 95650 ("CONTRACTOR"), referred to individually as Party and collectively as Parties.

WHEREAS, COUNTY desires to acquire a body scanner and related software and equipment to support security and operational needs of the Yamhill County Sheriff's Office; and

WHEREAS, CONTRACTOR provides Equipment (as defined herein) and was selected to provide the Equipment to COUNTY pursuant to a contract-specific special procurement authorizing COUNTY to participate in a bulk purchase pursuant to a proposal provided by CONTRACTOR to the Oregon State Sheriff's Association (OSSA) (the "Proposal"), attached hereto as Exhibit A; and

WHEREAS, COUNTY and CONTRACTOR now desire to enter into this Agreement for CONTRACTOR to provide the Equipment and services to COUNTY in accordance with the terms herein and of the following Exhibits, which are attached hereto and incorporated herein by this reference:

Exhibit A	Proposal
Exhibit B	Insurance Requirements
Exhibit C	Installation and Warranty Policy
Exhibit D	Service Agreement
Exhibit E	Preventative Maintenance Procedure

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and covenants, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, herein the Parties agree as follows:

1.0 Definitions. As used in this Agreement, the following capitalized terms shall have the following meanings:

1.1 "Confidential" shall have the meaning provided in Section 12.1.

1.2 "Documentation" shall mean manuals, training materials, information or diagrams relating to the Equipment, including Software.

1.3 "Effective Date" shall be the date that the Agreement is fully executed and signed by all Parties to the Agreement.

1.4 "Equipment" means the body scanner and related Software licensed and equipment purchased pursuant to this Agreement and as further described in Exhibit B.

1.5 "Final Acceptance" shall mean the Equipment has been accepted by COUNTY in accordance with this Agreement.

1.6 "Software" shall mean all of the software applications provided by CONTRACTOR, including any and all upgrades, updates, error corrections, additions, new releases or versions, modifications, enhancements, interfaces, CONTRACTOR-owned software, third-party software, information about such applications, and any related elements pursuant to this Agreement.

2.0 Products and Services; Software License

2.1 Work Requirements: In consideration for the payments described in Section 3.0 hereof, unless sooner terminated, CONTRACTOR will provide COUNTY with the Equipment described in Exhibit B.

2.2 Software License Grant: CONTRACTOR hereby grants to COUNTY a perpetual, nontransferable (except as otherwise provided herein), nonexclusive license to use the Software and Documentation solely in accordance with the terms and conditions set forth in this Agreement.

2.3 Software scope of Rights: COUNTY may (i) make copies of the Software for backup and archival purposes only, provided that no more than two (2) copies of the Software are in existence at any one time, (ii) make copies of the Documentation for COUNTY's internal use only.

2.4 Third-Party Software: Rights to commercial off-the-shelf software products provided by CONTRACTOR or third-party software vendors may be subject to licensing provisions of those third-party software vendors, which licenses the COUNTY hereby accepts.

2.5 New Versions of Software or Software Updates and Upgrades: CONTRACTOR shall provide COUNTY with new versions of the Software, including all Updates and Upgrades, at no added cost as part of the Software license and preventative maintenance under Exhibit E. Before updating or upgrading the Software, CONTRACTOR shall inform COUNTY of the latest version of the Software and provide the necessary training as part of services under Exhibit D. CONTRACTOR shall also ensure that COUNTY provides authorization to CONTRACTOR before CONTRACTOR installs the most current version of the Software

3.0 Compensation and Payment Provisions

3.1 COUNTY shall make payment upon receipt and Final Acceptance of the Equipment as invoiced by CONTRACTOR following successful deployment. COUNTY shall pay invoices within thirty (30) days after an invoice has been received and approved by the authorized COUNTY representative and they have determined that the Equipment has been successfully deployed.

3.2 The costs set forth in Exhibit A constitute the entire compensation due to CONTRACTOR under this Agreement.

3.3 Any and all CONTRACTOR related travel expenses that are incurred as a direct result of this Agreement shall be CONTRACTOR's responsibility.

4.0 **Term:** The Effective Date of this Agreement will be upon the date of signatures by all Parties. This Agreement, unless terminated or renewed as elsewhere provided in the Agreement, shall terminate on the 31st of December, 2019. The Agreement shall automatically renew each year for an additional year for, including but not limited to, the Software licenses, warranties, maintenance and related services as described herein, subject to the limits of COUNTY available funding. Should COUNTY not be able to obtain funding approval COUNTY will provide 30 days prior written notice before the termination date or the end of the then current term or this Agreement shall renew automatically for another year.

5.0 **Access to Records:** CONTRACTOR shall maintain fiscal records and all other records pertinent to this Agreement. All fiscal records shall be maintained pursuant to US GAAP, and other records shall be maintained to the extent necessary to clearly reflect actions taken. All such records shall be retained and kept accessible for at least seven (7) years following final payment. COUNTY's authorized representatives shall have the right to direct access to all of CONTRACTOR's books, documents, papers and records related to this Agreement for the purpose of conducting audits and examinations and making copies, excerpts and transcripts. COUNTY shall reimburse CONTRACTOR for CONTRACTOR's reasonable cost of preparing such copies.

6.0 **Compliance with Applicable Law:** Each Party agrees to comply with all federal, state and local laws, rules and regulations in the performance of its duties and obligations under this Agreement. Any violation by CONTRACTOR of applicable law shall constitute an event of default under this Agreement and CONTRACTOR shall be liable for and hold COUNTY harmless and defend COUNTY from and against any and all liability arising out of, connected with, or as a result of the violation. CONTRACTOR agrees that CONTRACTOR has complied with the tax laws of the state of Oregon or a political subdivision of the state of Oregon, including ORS 305.620, 305.380(4) and ORS Chapters 316, 317 and 318.

7.0 Indemnification

7.1 **Indemnification by CONTRACTOR:** CONTRACTOR shall defend, indemnify and hold harmless COUNTY, its officers, agents, and employees from any and all claims, liabilities, demands, damages, actions or proceedings arising from or relating to the negligence, wrongful acts or omissions of CONTRACTOR, its officers, agents, and employees in connection with the Equipment and the performance of any services under this Agreement.

7.2 **Infringement Indemnification by CONTRACTOR.** CONTRACTOR agrees to indemnify and defend COUNTY against any claim or action brought by any third-party for actual or alleged infringement of any United States patent, copyright, trade secret or other intellectual property law based upon COUNTY's own internal use of the Software in accordance with this Agreement and to pay any damages and costs finally awarded against COUNTY or paid in settlement. CONTRACTOR shall have the sole right to conduct the defense of any claim or action and all negotiations for its settlement, unless the parties to this Agreement agree otherwise in writing. COUNTY agrees to give CONTRACTOR prompt written notice of any threat, warning, or notice of any claim or action that could have an adverse impact on CONTRACTOR's rights in the Software. CONTRACTOR shall not be responsible for any settlement entered into without its consent. In the event of a claim or action under Section 7.3, CONTRACTOR may, in its sole discretion, (a) procure for COUNTY the right to continue using the Software; (b) provide a substitute, non-infringing Software; or (c) terminate this Agreement and refund the license fees paid by CONTRACTOR, less depreciation, using a five-year, straight-line method of calculation. Notwithstanding the above, CONTRACTOR shall have no obligation under this Section 7.2 with respect to any claim or action that is based upon (a) COUNTY's use of the Software in breach of any term or condition of this Agreement; (b) the use or combination of the Software with any third-party product, software, hardware, or system, except as provided herein or; (c) modification of the Software other than by a representative of CONTRACTOR.

8.0 Insurance

8.1 Throughout the term of this Agreement, CONTRACTOR shall maintain at all times commercial general liability insurance and property damage insurance, covering its activities and operations under this Agreement. CONTRACTOR shall add COUNTY, its officers/officials, agents, employees, and volunteers as additional insureds for general liability and property damage insurance coverage and an Endorsement shall be issued by the company showing COUNTY as an Additional Insured and the coverage shall contain a 30-day Notice of Cancellation endorsement. Such insurance shall be in the forms and amounts not less than set forth in ORS 30.260 to 30.300, as requested in the attached Insurance Requirements, Exhibit B, attached hereto and incorporated herein by this reference. All insurance shall be evidenced by a Certificate of Insurance and Endorsement provided to COUNTY, indicating coverages, limits and effective dates, by an insurance company licensed to do business in the State of Oregon.

8.2 CONTRACTOR shall obtain and maintain at all times during the term of this Agreement, workers' compensation insurance with statutory limits and employers' liability insurance.

8.3 CONTRACTOR shall provide COUNTY with evidence that it is a carrier-insured or self-insured employer in full compliance with ORS Chapter 656, or that it employs no persons subject to the requirements of ORS 656, Workers' Compensation Coverage.

9.0 Warranty

9.1 CONTRACTOR warrants:

9.1.1 Unless otherwise stated, all Equipment shall be new and current model and shall carry full manufacturer warranties. Additionally, COUNTY has purchased both the 3-year and 5-year extended warranty with preventative maintenance, as provided in CONTRACTOR's proposal in Exhibit A and reflected on the attached invoice and in Exhibit C. CONTRACTOR warrants all Equipment delivered to be free from defects in labor, material and manufacture. All implied and expressed warranty provisions of the Uniform Commercial Code (ORS Chapter 72) are incorporated in this Agreement. All warranties shall run to COUNTY.

9.1.2 The Equipment will perform in accordance with the Proposal and this Agreement including all Exhibits, which are incorporated herein by this reference.

9.1.3 All Equipment will strictly comply with and conform to descriptions and representations of Exhibit B (including performance capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, function and requirements).

9.1.4 CONTRACTOR acknowledges the standard of performance and professionalism required in the performance of its services in the delivery of the Equipment under this Agreement. CONTRACTOR agrees to perform and deliver the Equipment under this Agreement with the level of professionalism expected in its industry/profession in the community. Further, CONTRACTOR, while performing its obligations under this Agreement, will conduct itself in such a manner that will promote the best interests of the COUNTY. CONTRACTOR further agrees that it will not accept any fee or financial remuneration from any entity or person other than COUNTY for its performance under this Agreement.

10.0 Force Majeure: Neither Party shall be responsible for delays or failures in performance as a result of an Act of God, war, civil disturbance, labor dispute, or other cause beyond the reasonable control of such Party.

11.0 Ownership of Data and Software:

11.1 COUNTY will retain all title, rights, and ownership of all data, and other data created, acquired or stored on the Equipment by use of the Equipment. COUNTY may duplicate the data entered into the Equipment on any media COUNTY will retain ownership of all data created by the use of the System as stored on any media. CONTRACTOR retains all rights to its Software, and COUNTY may only use such Software pursuant to this Agreement. CONTRACTOR does not have any obligation to convert or transfer any data to any other format, to allow use of its Software other than as set forth in this Agreement. COUNTY or CONTRACTOR may develop, and COUNTY shall retain ownership of, all hooks, interfaces, or similar tools for use with the Software provided that the hook, interface, or tool does not use any part of the Software or require any modification or alteration of the underlying code of the Software. CONTRACTOR shall own all right, title, and interest (including all associated intellectual property rights) in and to any Customizations to the Software.

11.2 It is understood by both Parties that during the term of this Agreement CONTRACTOR may require access to certain data owned by the COUNTY in order to fulfill its duties as required by this Agreement. CONTRACTOR therefore agrees to destroy all such data in CONTRACTOR's possession, if any, and to notify the COUNTY in writing that such destruction has occurred.

11.3 In the event CONTRACTOR, its heirs or assigns cease doing business or otherwise exit the business activity supporting the Software, CONTRACTOR will deliver the most current version of the underlying Software source code to the COUNTY. COUNTY will be free, at COUNTY's sole discretion, to continue use of the Software with no further financial obligation to CONTRACTOR, its heirs or assigns. COUNTY recognizes that the Software will be unsupported at that point and that CONTRACTOR, its heirs or assigns, will have no obligation to COUNTY relating to updates, maintenance or other forms of technical support

12.0 Confidential Information

12.1 The Parties acknowledge that in the course of performing its responsibilities under this Agreement, that each Party may be exposed to or acquire information which is proprietary and confidential to the other Party or its affiliated companies or their agents. Any and all information of one Party in any form obtained by the other Party or its employees, agents or representatives in the course of performing this Agreement shall be deemed to be proprietary and confidential information of such Party, subject to the Oregon public records law, ORS Chapter 192. The Parties agree to hold such information in strict confidence and not to copy, reproduce, sell, assign, license, market, transfer, give or otherwise disclose such information to third-parties or to use such information for any purposes whatsoever, without the express written permission of the other Party, other than for the delivery of Equipment or provision of services hereunder, and to advise each of its employees, agents and representatives of its obligations to keep such information confidential. All such confidential and proprietary information described herein and any deliverable provided hereunder, in whatever form, are hereafter collectively referred to as "Confidential Information." The Parties shall use reasonable efforts to assist each other in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, the Parties shall use reasonable efforts to advise each other immediately in the event that either learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement, and will reasonably cooperate in seeking injunctive relief against any such person.

12.2 Notwithstanding the obligations set forth in the previous paragraph, the confidentiality obligations of the Parties shall not extend to information that: (i) is, at the time of its disclosure, or thereafter becomes part of the public domain through a source other than the receiving party; (ii) was known to the receiving party as of the time of its disclosure; (iii) is independently developed by the receiving party; (iv) is subsequently learned from a third party not under a confidentiality obligation to the disclosing party; or (v) is required to be disclosed pursuant to statute, court order or other governmental authority, whereupon the receiving party shall provide notice to the disclosing party so as to allow the disclosing party to take appropriate steps to protect its interests.

13.0 Termination

13.1 Default by CONTRACTOR: If CONTRACTOR defaults in the performance of any of its material obligations under this Agreement for a period of thirty (30) days after the sending of notice to the address on this Agreement that it is in default, COUNTY may, at its option, terminate the Agreement by delivering written notice to CONTRACTOR at the address in this document, and paying CONTRACTOR, in full satisfaction and discharge of all liabilities and obligations owed to CONTRACTOR, all sums due under this Agreement for all work performed by CONTRACTOR, and accepted by COUNTY, to the initial date of the default. For the purposes of this Agreement, material obligations are any obligation under the terms of this Agreement, which, if not completed according to the terms of the Agreement, would render the Equipment inoperable.

13.2 Mutual Consent/Convenience: All or part of this Agreement may be terminated by mutual consent of both parties; or by either party at any time for cause, upon sixty (60) days' notice in writing, and delivered by certified mail. All or part of this Agreement may be terminated by COUNTY at COUNTY's convenience upon thirty (30) days' notice in writing and delivered by certified mail.

13.3 Breach of Agreement: Should CONTRACTOR breach any of the provisions of this Agreement, COUNTY reserves the right to cancel this Agreement upon written notice to CONTRACTOR. CONTRACTOR shall be liable for any and all damages suffered by COUNTY as the result of CONTRACTOR's breach of the Agreement, including but not limited to incidental and consequential damages, as provided in ORS 72.7110 to 72.7170.

13.4 Funding Out: If COUNTY reduces, changes, eliminates or otherwise modifies funding for the Yamhill County Sheriff's Office for any of the Equipment or services identified, CONTRACTOR agrees to abide by any such decision, including termination.

13.5 Miscellaneous: COUNTY may terminate all or part of this Agreement: (i) with ten (10) days' notice, if funding to COUNTY from federal, state or other sources is not obtained or is not continued at levels sufficient to allow for purchase of the indicated quantity and quality of Equipment or services. COUNTY will give more notice whenever possible; (ii) with thirty (30) days' notice, if federal or state regulations are modified or changed in such a way that the Equipment or services are no longer allowable for purchase under this Agreement; (iii) upon notice of denial, revocation or non-renewal of any licensee or certification required by law or regulation to be held by CONTRACTOR to provide Equipment or a service under this Agreement; (iv) if CONTRACTOR fails to deliver Equipment or start services on the date agreed upon by COUNTY and CONTRACTOR; (v) failure of CONTRACTOR or COUNTY to comply with the provisions of this Agreement or all applicable federal, state and local laws and rules may be cause for termination of this Agreement. Such termination shall be without prejudice to any obligations or liabilities of either party accrued to such termination; or (vi) immediately in the event of an emergency or if it is deemed by COUNTY in its reasonable discretion to be in the public interest. 7 COUNTY shall not be liable for anticipated profits based upon Equipment not yet delivered as of the date of termination. If payments previously made to CONTRACTOR exceed the amount CONTRACTOR is entitled to receive pursuant to this Section, CONTRACTOR shall immediately repay COUNTY the difference.

13.6 Effect of Termination: The termination of this Agreement shall not affect the Customer's rights to the Software pursuant to Section 3.1 provided that Customer has paid all Software license fees and Customer is not in breach of any provision of this Agreement

14.0 Data Backup: Data backup and restoration of data (if any) will be performed and maintained by COUNTY.

15.0 Work Orders

15.1 COUNTY Initiated. In the event that COUNTY desires to modify or amend this Agreement, including any Exhibit, COUNTY will work with CONTRACTOR to initiate a Work Order to CONTRACTOR noting the general scope for the modified Equipment or services requested. CONTRACTOR shall respond in writing within ten (10) days of receipt of a COUNTYA Work Order, or at another time as mutually agreed, providing a specific recommendation for the solution, and providing COUNTY with a not-to-exceed cost for the Equipment or services proposed in the Work Order. CONTRACTOR's written response will include a breakdown of the number of staff hours, level of personnel needed to effect this change, and technical design information for the proposed solution. There shall be no charge for the preparation of this response.

15.2 CONTRACTOR Initiated. In the event that CONTRACTOR desires to modify or amend Exhibit B, CONTRACTOR may submit an unsolicited Work Order Request to COUNTY for consideration. CONTRACTOR's submission of an unsolicited Work Order Request to COUNTY does not modify or amend this Agreement or Exhibit B in any way, and creates no COUNTY obligations whatsoever.

15.3 Approval. COUNTY approval for any modification or amendment to Exhibit B will be indicated solely through COUNTY's written approval of a specific Work Order.

15.4 Out of Scope. In the event CONTRACTOR believes that COUNTY is requiring work outside the scope of the Agreement requirements, CONTRACTOR's sole remedy is to provide a written Work Order Request for COUNTY's approval or disapproval. CONTRACTOR shall include within such Work Order Request a description of the work required that CONTRACTOR considers to be outside the scope of the Agreement requirements, the date CONTRACTOR would start the work, and the complete cost of such work, including the cost and time to complete such work. COUNTY shall have fifteen (15) days from the date of receipt of the written Work Order Request, or such amount of time as is mutually agreed, to approve or disapprove the Work Order Request. During the pendency of the Work Order Request, CONTRACTOR shall continue working without stoppage on all contractual work, including the work that is the subject of a Work Order Request. For clarification, and not as a limitation, stopping work during the pendency of a CONTRACTOR Work Order Request shall be considered a material breach.

15.5 All Work Order Requests will be in writing and approved by both Parties and will be treated as an amendment to this Agreement pursuant to subsection 16.7 of this section.

16 Miscellaneous

16.2 **Governing Law and Venue:** All questions concerning the validity, interpretation and performance of this Agreement will be governed by and decided in accordance with the laws of the State of Oregon. The Parties hereby submit and consent to the exclusive jurisdiction of the Yamhill County Circuit Court and irrevocably agree that all actions or proceedings relating to this Agreement will be litigated in this court and each of the Parties waives any objection which it may have based on improper venue or *forum non conveniens* to the conduct of any such action or proceeding in this court.

16.3 **Equitable Remedies:** The Parties agree that in the event of any breach or threatened breach of any provision of this Agreement concerning (i) Confidential Information, (ii) intellectual property rights or (iii) other matters for which equitable rights may be granted, money damages may be an inadequate remedy. Accordingly, such provisions may be enforced by the preliminary or permanent, mandatory or prohibitory injunction or other order of a court of competent jurisdiction.

16.4 **Integration:** This Agreement and the attached exhibits constitute the entire agreement between the Parties with respect to the subject matter described herein. No agreements, representations, or warranties other than those specifically included in this Agreement and the attached exhibits shall be binding on either of the Parties. In case of a conflict between the terms of this Agreement and any attached exhibit, the terms of this Agreement shall prevail.

16.5 **Notices:** Any notices or reports required by this Agreement to be given by one Party to the other Party shall be made in writing. The writing shall be delivered personally or mailed by United States Mail, postage prepaid, certified mail, return receipt requested. Notices shall be addressed to that Party at the address shown below or at such other address as that Party may designate in writing. Notice is deemed to have been given immediately if delivered in person, or on the third day following mailing.

Notice to Contractor:

Command Sourcing, Inc.
Attn: Jack McLaughlin
6100 Horseshoe Bar Rd., STE A # 228
Loomis, CA 95650

Notice to COUNTY:

Yamhill County
Attn: _____
434 NE Evans
McMinnville, OR 97128

16.6 **Assignment:** This Agreement shall be binding on the Parties hereto and its respective successors and assigns. Neither Party shall have the power to assign this Agreement without the prior written consent of the other.

16.7 **Subcontractor:** CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this Agreement, nor assign or transfer any of its interest in this Agreement, without the prior written consent of COUNTY.

16.8 **Waiver and Amendments:** No waiver, consent, modification or change in the terms of this Agreement shall bind either party unless executed in writing signed by the authorized representatives of the Parties. Any written waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given once signed by both parties. A waiver of any part of this Agreement shall not be a waiver of the entire Agreement. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of either party to enforce at any time any of the terms of this Agreement, or to exercise any option which is provided, or to require at any time performance by the other party of any of the provisions, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of any part of this Agreement, or the right of either party to thereafter enforce each and every provision.

16.9 **Severability:** If any provision of this Agreement is unenforceable, that provision will be changed and interpreted to accomplish the objectives of the provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect in order to best accomplish the original intent of the parties.

16.10 **CONTRACTOR Responsibility for Taxes:** Property, sales, and use taxes shall not be included in invoices submitted to COUNTY pursuant to this Agreement.

16.11 **Delivery:** If applicable, CONTRACTOR shall arrange for delivery of any CONTRACTOR supplied Equipment to the appropriate COUNTY installation site(s) in accordance with Exhibit B. Shipment of the Equipment shall be F.O.B. destination, COUNTY's receiving point at the installation site(s) with all transportation charges paid by CONTRACTOR.

16.12 **Risk of Loss & Title:** CONTRACTOR shall bear the risk of loss or damage to the Equipment while in transit to COUNTY's premises and the installation site(s). COUNTY shall bear all risk of loss or damage to the Equipment (except as to latent defects, fraud and CONTRACTOR's warranty obligations) after delivery to the installation site(s) and written acceptance by COUNTY, unless such loss or damage is due to the negligence or willful acts of CONTRACTOR, its employees, agents, representatives or subcontractors. CONTRACTOR shall transfer title to the EQUIPMENT to COUNTY upon COUNTY's full payment for said Equipment.

16.13 **Inspections:** Equipment furnished and installed under this Agreement shall be subject to inspection and test by COUNTY at times and places determined by COUNTY. If COUNTY finds Equipment furnished or installed to be incomplete or not in compliance with specifications, COUNTY may reject the Equipment and require CONTRACTOR to either correct them without charge or deliver them at a reduced price, whichever is equitable under the circumstances. If CONTRACTOR is unable or refuses to cure any defects within a time deemed reasonable by COUNTY, COUNTYA may reject the Equipment and cancel this Agreement in whole or in part.

Nothing in this paragraph shall in any way affect or limit COUNTY's rights as buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080

16.14 Independent Contractor Status: CONTRACTOR is, and shall remain at all times, an independent contractor with respect to activities and conduct while engaged in the performance of this Agreement.

16.15 Project Team Replacement: COUNTY reserves the right to reject or request removal of any employee of CONTRACTOR identified as a key resource for the implementation and installation of the Equipment provided under this Agreement. Any change or replacement of a key resource must have prior approval by COUNTY and the key resource replacement must have substantially similar experience and knowledge of the Equipment as the individual being replaced, and such approval shall not be unreasonably withheld.

16.16 Integration and Merger: This written Agreement and the attached exhibits, all of which are incorporated herein by this reference, and any subsequent amendments executed in accordance with Section 16.7 and all exhibits constitute the entire Agreement between the parties and supersede any prior oral or written statements, discussions, or understanding between the parties.

16.17 Attachments: Attached to and made part of the Agreement are the following:

Exhibit A	Proposal
Exhibit B	Insurance Requirements
Exhibit C	Installation and Warranty Policy
Exhibit D	Service Agreement
Exhibit E	Preventative Maintenance Procedure

In the event of a conflict between this document and its exhibits, this document shall control over the Proposal and the Proposal shall control over the other exhibits. In the event of any inconsistency between any of the provisions of the Agreement documents, the inconsistency shall be resolved by giving precedence in the following order:

- A. This Agreement,
- B. Exhibit A
- C. Exhibit B
- D. Exhibit C
- E. Exhibit D
- F. Exhibit E

16.18 Further Documentation: The Parties agree to promptly execute such other and further documents and agreements as may be reasonably necessary or advisable to effectuate the terms of this Agreement.

16.19 Survival: The terms of Sections 5, 7, 9, 11, 12 and Exhibits B, C, D and E hereof shall survive the expiration or termination of this Agreement for a period of six (6) years.

16.20 Civil Rights: CONTRACTOR agrees to comply with the Civil Rights Act of 1964, and 1991, Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, and Title VI as implemented by 45 CFR 80 and 84 which states, in part, that no qualified person shall on the basis of disability, race, color, sex, religion, or national origin be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which received or benefits from federal financial assistance.

16.21 Incorporation of statutory provisions required for public contracts. CONTRACTOR shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the provision of goods under this Agreement, including without limitation, the provisions of ORS 279C.505, 279C.515 and 279B.235, as set forth below and elsewhere herein, and all amendments of and regulations and administrative rule established pursuant to those laws; and all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

16.21 Payments Required by ORS 279C.505 and 279B.220: For all goods and Equipment provided under this Agreement, Contractor shall (i) pay promptly as due, all persons supplying labor or material; (ii) pay all contributions or amounts due the Industrial Accident Fund from the CONTRACTOR or any subcontractor; (iii) not permit any lien or claim to be filed or prosecuted against COUNTY or a subdivision thereof; and (iv) pay to the Department of Revenue, all sums withheld from employees pursuant to ORS 316.167.

16.22 COUNTY Payment of CONTRACTOR Claims: If CONTRACTOR fails, neglects or refuses to pay promptly as due, any claim for labor or services furnished to the CONTRACTOR or any subcontractor by any person in connection with the goods provided under this Agreement, COUNTY may, but is not required to, pay such claim and charge the amount of the payment against funds due or to become due the CONTRACTOR under this Agreement. The payment of a claim by COUNTY pursuant to this section shall not relieve the CONTRACTOR or its surety, if any, from obligation with respect to any unpaid claims.

16.23 Hours of Labor: No person shall be employed by the CONTRACTOR for more than eight hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where public policy absolutely requires it, and in such cases the laborer shall be paid at least time-and-a-half pay for all overtime in excess of eight hours a day and for the work performed on Saturday and on any legal holiday specified in ORS 279B.020 and 279C.540

16.24 Safety and Health Requirements: Equipment and services provided under this Agreement shall comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State Workers Compensation Division.

16.25 Award to Foreign Contractor: If CONTRACTOR is not domiciled in or registered to do business in the State of Oregon, CONTRACTOR shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Agreement.

16.26 Recyclable Products; CONTRACTOR shall use recyclable products to the maximum extent economically feasible in the performance of this Agreement and shall specify the minimum percentage of recycled product in the goods and Equipment provided.

16.27 Attorney fees and costs. In the event that either party to this Agreement shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this Agreement, each party shall be wholly responsible for its own expenses which it may incur in taking such action, including costs and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any non-judicial action

16.28 Use of COUNTY Facilities. CONTRACTOR and its employees or agents shall have the right to use COUNTY facilities to perform under this Agreement and shall have no right of access to any facility of COUNTY without the prior written approval of COUNTY management. COUNTY shall have no responsibility for the loss, theft, mysterious disappearance of or damage to equipment, tools, materials, supplies and other personal property of CONTRACTOR or its employees, subcontractors or agents which may be stored on COUNTY premises, except to the extent that such loss, theft, disappearance or damage is caused by the sole negligence of COUNTY.

16.29 Incorporation. The introductory paragraph and recitals appearing at the beginning of this Agreement are hereby incorporated into and made a part of this Agreement as if fully set forth herein.

16.30. No Third Party Beneficiaries. COUNTY and CONTRACTOR are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Agreement and expressly described as intended beneficiaries of this Agreement.

16.31 Counterparts. This Agreement may be executed by facsimile and in counterparts which together form one legal instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

YAMHILL COUNTY
BOARD OF COMMISSIONERS:

CONTRACTOR
COMMAND SOURCING, INC.

Chair _____ Date 6/29/18

Jack McLaughlin

Commissioner _____ Date 6/29/18

Signature _____

Date

Commissioner _____ Date

81-2441946

Tax ID#

Recommended by:

Yamhill County Sheriff _____ Date 6/29/18

APPROVED AS TO FORM:

County Counsel _____ Date 7/2/18

EXHIBIT A

PROPOSAL

(Attached as separate document.)

Yamhill County - Command Sourcing, Inc. : Body Scanner

Exhibit "A"



Quotation

Command Sourcing, Inc.
 6100 Horseshoe Bar Rd, STE A #228
 Loomis, CA 95650
 www.commandsourcing.com
 sales@commandsourcing.co

QUOTE NO. 131181
 DATE January 31, 2018

BILL TO Yamhill County Sheriff's Office
 Attn: Accounts Payable
 535 NE 5th Street, Rm 143
 McMinnville, OR 97128

SHIP TO Yamhill County Sheriff's Office
 Attn: Sheriff Tim Svenson
 535 NE 5th Street, Rm 143
 McMinnville, OR 97128

Customer ID #	PO #	Contact Person	Contact Person Phone:	Payment Terms	Quote Valid Until
		Maggie Leach	503-780-1867	Net 15	2/26/18

QTY	ITEM #	DESCRIPTION	UNIT PRICE	LINE TOTAL
1.00	16HRFB	B-Scan - Full Body - Dose Rate: <2.0µSv / scan or ~125 scans per year - Includes: Operator Keyboard and Manual, 12-month Standard Warranty	\$ 135,000.00	\$ 135,000.00
1.00	S&H	Shipping, Install and Training at Each Location - Training Includes: 2-hour Operator Orientation by Field Service Technician	Included	\$ -
1.00	SIM	SIM Software - SIM = Scan and Image Management ability to track (via barcode or ID number) the number of times individuals are screened against annual thresholds. The included SIM is a standalone system.	Included	\$ -
1.00	SEM	Image Analysis Seminar**	Included	\$ -
1.00	PROMO	Operator Training Seminar**	Included	\$ -
1.00	3YRWARR	B-Scan On-Site Warranty with Preventive Maintenance - Three years total (additional 2 year) ***OPTIONAL***	\$ 20,000.00	\$ -
1.00	6YRWARR	B-Scan On-Site Warranty with Preventive Maintenance - Three years total (additional 2 year) ***OPTIONAL***	\$ 40,000.00	\$ -
		**Includes: Training provided for all of Oregon through two sets of centrally located training sessions. These sessions will run over 2.5 days and will be conducted by a trainer on-site.		

Sales Tax: \$ -

Comments or special instructions:

Extended Maintenance/Warranty is optional and would be an additional charge as listed on top of the \$135,000 based upon total number of years requested. \$155,000 for 3-year and \$175,000 for 6-year plan.

Total: \$ 135,000.00

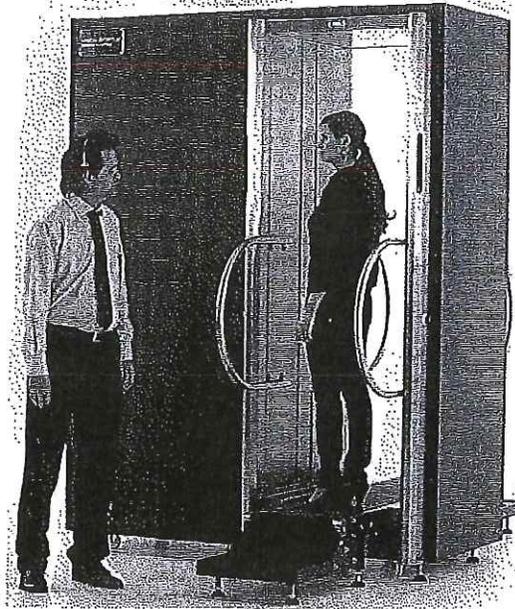
This is part of a bulk/volume purchase discount set up by OSSA and Command Sourcing and requires that we have at least 10 other participants. We can only get this pricing to you under those conditions.

- Additional and optional ongoing maintenance and extended warranty options available.
- Pricing requires bulk purchase with a minimum order of (10) units. No maximum limitations.
- Price inclusive of all services and packages and cannot be un/re-bundled.
- Commitment to order must be made within (30) days of this proposal to guarantee rates.
- Shipping is FOB Destination and lead-time is 16-18 weeks upon receipt of order.

4% service charge on payment by Credit Card. Return Policy: Command Sourcing must be notified prior to receipt of any returned items and a restocking fee may be assessed.

B-SCAN™ 16HR-FB

Transmission X-Ray People Screening Technology



Feature Highlights

- Detects objects concealed internally in or externally on the body.
- Contraband and threat detection including: weapons, explosives (plastic and powder), detonators, narcotics, electronic devices, diamonds, precious stones/metals and mobile phones.
- High throughput – scan time less than 7 seconds.
- Complete head to toe inspection in one short inspection cycle.
- State of the art image processing software and zoom functions facilitates efficient image evaluation.
- Low dose rate <math>< 2.0\mu\text{Sv}/\text{inspection}</math>

B-SCAN™ uses transmission x-ray technology employing very low dose rates to screen people. This non-intrusive approach to people screening enables the detection of objects concealed internally in body cavities, on a person beneath clothing, or in artificial limbs.

The B-SCAN™ system is used to detect contraband and threat objects in applications including prisons, customs and border crossings.

The B-SCAN™ produces a high resolution head to toe whole body image of the person under review in a single pass.

This high resolution image and image enhancement tools allows the operator to accurately and quickly evaluate the image.

Using specially adapted image processing software B-SCAN™ provides security checks of unequalled quality.

B-SCAN™ uses state of the art safety systems to monitor the radiation generation and dose.

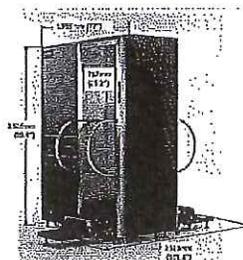
With over ten years of field experience B-SCAN™ is proven as a well engineered and reliable screening system.

Function	
Material detected includes	Metal, ceramic, plastics, powders, explosives, narcotics
Detection capability	Objects hidden internally and externally on the body
Type of scan	Full body scan in one inspection pass
Primary function	Screen people for contraband and threats
Wire detectability	standard: 36 AWG (0.13 mm) • typical: 38 AWG (0.10 mm)
Technology	Low dose transmission x-ray
Operational Data	
Physical format	Open tunnel - In line with checkpoint flow
Start up time	<2 minutes
Belt speed	Approx. 0.12 m/s
Scan method	Person moved through the beam
Scan time	< 7 Seconds
Alarm resolution	Single image review
Conveyor load capacity	>220kg (485 lb)
Installation Information	
Dimensions	approx. 2585 [L] x 2525 [H] x 1955 [W][mm] (101.8" x 99.4" x 76.9")
Weight	820kg
Humidity	10% - 90% (non condensing)
Storage temperature	-20°C to 60°C
Operating temperature	0°C to 40°C
Power consumption	< 0.9 kVA
Mechanical construction	Metal body (aluminium, steel)
Sound pressure	< 70 dB (A)
Power supply (standard)	230 VAC / 120VAC +10% / -15% 50 Hz / 60 Hz
Image generation	
Generator cooling	Oil cooled, closed circuit
Scan format	Fan beam line scan
Generator	160kV cp, Hermetically sealed oil bath.
X-ray converter	High resolution semiconductor detector lines
Dose per inspection	< 2.0 µSv (<0.20 mRem)*
Duty cycle	100%
Image presentation	
Result presentation	Post scan still image - Full body image
Grey levels stored	65536
Image display	b/w
Image evaluation functions	zoom, various enhancement and filter functions
Monitor	special colour TFT monitor
Options / Features	
Scan and Image Management system (SIM). Configurations include:	
- Stand alone	
- Networked with central data and image storage	
- Connected to customer database	
Operator's table	
Side wall / side wall with window	
Can be configured with image store and load capability	
Programmable function keys	
Remote operator privacy solution	
Software for instantaneous offsite independent image assessment	

Other B-SCANSM models available with different dose per inspection

* Measured in the centre of the tunnel

All applicable national regulations, requirements and approvals need to be considered and addressed by the customer
All models of B-SCAN have been independently tested against the ANSI/HPS N43.17-2009 guideline



For product information, sales or service, please go to www.smithsdetection.com/locations

Smiths Heimann GmbH, Im Herzen 4, 65205 Wiesbaden, Germany
Modifications reserved. 95591163 27/10/2017 © Smiths Detection Group Ltd. - In some cases, the figures contain options
B-SCAN is a trademark of Smiths Detection Group Ltd.

smiths detection

EXHIBIT B

INSURANCE REQUIREMENTS

During the entire term of this Agreement (and for 5 years following expiration of this Agreement for Professional Liability Insurance), Contractor shall maintain in force, at its own expense, each insurance checked below. In the event of conflict in language regarding Insurance Requirements between this Exhibit H and the Agreement document, this Exhibit H shall take precedence.

TYPE OF INSURANCE	EXPLANATION OF REQUIREMENTS
<p>WORKERS' COMPENSATION, in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their workers.</p> <p><input checked="" type="checkbox"/> Required <input type="checkbox"/> Not required <i>(Contractor has one Or more employees) (Contractor has no Employees Must Provide written statement as such)</i></p>	<p>This coverage is necessary because COUNTY is self-insured for Workers' Compensation and any claim would affect COUNTY directly. Proof of this insurance must be provided before work begins. Coverage is required only if the Contractor has one or more employees.</p>
<p>PROFESSIONAL LIABILITY INSURANCE WITH A COMBINED SINGLE LIMIT, OR THE EQUIVALENT, OF NOT LESS THAN \$3,000,000 FOR EACH CLAIM, INCIDENT, OR OCCURRENCE.</p> <p><input checked="" type="checkbox"/> Required <input type="checkbox"/> NOT Required</p>	<p>This is to cover damages caused by error, omission or negligent acts related to the Equipment and services to be provided under this Agreement.</p> <p>COUNTY does not need this insurance when the Contractor's activity or advice holds almost no risk of damaging property or harming employees, visitors, families, or others. Examples include: author, lecturer, staff trainer, interpreter, photographer, musician.</p> <p>This coverage is required when there is a chance the Contractor's work could do harm and someone might have reason to blame COUNTY or department that retained the Contractor. Examples include: architect, engineer, investigator, accountant, legal advisor, and public works/improvement projects.</p>
<p>GENERAL LIABILITY insurance with a combined single limit of not less than \$2,000,000 for each occurrence, \$3,000,000 aggregate for bodily injury and property damage.</p> <p><input checked="" type="checkbox"/> Required <input type="checkbox"/> NOT Required <input type="checkbox"/> Exclusion approved by COUNTY</p>	<p>This insurance is required unless its deletion is approved by COUNTY. Insurance shall include contractual liability coverage for the indemnity provided under this Agreement and provide by separate written endorsement that COUNTY its officials, agents, employees and volunteers, are added as insured, but only with respect to the Contractor's services to be provided under this Agreement.</p>
<p>AUTOMOBILE LIABILITY insurance with a combined single limit, or the equivalent, of not less than (check one):</p> <p><input type="checkbox"/> Oregon Financial Responsibility Law, ORS 806.060 (\$25,000 property damage/\$50,000 bodily injury, \$5,000 personal injury). OR For each accident for bodily injury and property damage, including coverage for owned, hired or non-owned vehicles, as applicable. (Coverage limits required for this Agreement will depend on nature of contracted maintenances.)</p> <p><input checked="" type="checkbox"/> \$500,000 each accident <input type="checkbox"/> \$1,500,000 each accident <input type="checkbox"/> N/A</p>	<p>Automobile liability coverage is required of a Contractor when it, its subcontractor, or the employees of either will operate, maintain, load, or unload vehicles as part of the work or Services provided under this Agreement.</p> <p><u>COUNTY will determine the appropriate amount of coverage Contractor will need to provide depending on the severity of what could go wrong.</u> For instance, a Contractor transporting clients or staff is at a much greater risk than a Contractor driving his or her vehicle from one meeting site to another without passengers. Larger construction projects may require the higher combined single limit or equivalent. Contractor shall name COUNTY, its officials, agents, employees and volunteers, as additional insureds by a separate written endorsement, but only with respect to the Contractor's services provided under this Agreement.</p>
<p>Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without 30 days written notice from the Contractor or its insurer(s).</p>	
<p>Certificate of Insurance. Prior to commencing work, the Contractor shall provide a Certificate evidencing the insurance required by this Agreement and a separate written endorsement adding COUNTY its officials, agents, employees, and volunteers as insured. The Certificate shall state that coverage afforded COUNTY as an Insured shall apply as primary and not excess to any insurance issued COUNTY, provide a Cross Liability Clause, and state that the Contractor is responsible for payment of all insurance deductibles on the above-described policies.</p>	
<p>Send the Certificate of Insurance to: COUNTY, ATTN: County Counsel, 434 NE Evans, McMinnville, OR 97128</p>	

ANY CHANGES IN COVERAGE MUST BE APPROVED IN ADVANCE BY COUNTY - Revised March 2018

EXHIBIT C

(see attached)

INSTALLATION AND WARRANTY POLICY

smiths detection

bringing technology to life

2202 Lakeside Blvd
Edgewood, MD 21040
T: 410-612-4000
F: 410-510-9500
www.smithsdetection.com

Warranty Certificate

June 19, 2018

Yamhill County Sheriff Office
535 E 5TH Street, RM 143
Mcminnville OR 97128

This certificate confirms the six (6) Year Priority On-site warranty for your B-SCAN, serial number 126688. The warranty will begin on **July 27, 2018** and will expire on **July 26, 2024**.

Warranty benefits include:

PRIORITY ON-SITE SERVICE AGREEMENT

- ✓ On-Site Service Coverage – *Extended Hours, evenings and weekends*
 - ✓ Typical Response Time: *within 24 hours*
 - ✓ Includes all Labor, Travel Time and Travel Expenses
 - ✓ Includes all Replacement Parts required
- ✓ Reachback™-Reachback JD™ – *24 hour by 7 day Call Center Support*
- ✓ One Annual Preventive Maintenance check, Complete operational and calibration procedure performed
- ✓ Preferred Customer Status – *25% Discount on Instructor Led Training*

We appreciate your continued interest in Smiths Detection and look forward to further supporting you and your organization. If you have any questions, please feel free to contact me at 410-612-2541 or by e-mail at Katie.Joynes@smiths-detection.com.

Best Regards,

Katie Joynes

Katie Guckert Joynes
Aftermarket Sales Manager

smiths detection
bringing technology to life

Smiths Detection Inc.
2202 Lakeside Blvd.
Edgewood, MD 21040
U.S.A.

X-Ray Installation and Warranty Policy

Smiths Detection X-Ray equipment is an industry leading security screening device used across multiple industries for a variety of security purposes ranging from identifying and preventing weapons from entering restricted areas to loss prevention measures. Smiths Detection is proud to support the critical missions of our customers in all industries.

For the warranty to apply to Smiths Detection X-Ray equipment, the initial set-up, calibration, and overall installation and service must be performed by a Smiths Detection factory technician whose certification is current and in good standing. Our factory certified technicians have received hands on training on the uncrating, proper initial set-up, and final calibration that is required after the unit has been transported to the customer's location. Using Smiths Detection's factory certified technicians minimizes the risk of damage to the equipment, delays in equipment use, and potential future premature failures. Like all Smiths Detection equipment, our X-Ray machines come with a one year warranty that covers parts and labor from the date of installation that is only valid if the X-Ray machine is installed and serviced by a Smiths Detection factory certified technician.

EXHIBIT D

(see attached)

SERVICE AGREEMENT

On-Site Service Agreement

Our On-Site Series Agreements

Smiths Detection Service Agreements are offered to our customers as a means of ensuring optimal performance for the life of the product.

Our On-Site Service Agreements are all-inclusive allowing our customers to budget a fixed amount for all maintenance and servicing needs. Typical on-site service response time is within 36 hours from when we receive the call. This Service Agreement is all-inclusive, allowing our customers to budget a fixed amount for all maintenance and servicing needs.

As a preferred customer you will always receive our top priority to get your system up and running at peak performance!

- ✓ On-Site Coverage – 8:00 a.m. – 5:00 p.m., Monday – Friday (excluding holidays)
- ✓ Typical Response Time: within 36 hours of when the call is received
- ✓ Includes all Labor
- ✓ Includes all Travel Expenses
- ✓ Includes all Replacement Parts required
- ✓ Reachback™-ReachbackID™ – 24 hour by 7 day Call Center Support
- ✓ One Annual Preventive Maintenance check, Complete operational and calibration procedure performed
- ✓ Valued Customer Status – 15% Discount on Instructor Led Training

This Service Agreement is available on the following product lines:

<u>Trace Detection Systems</u>	<u>X-Ray Systems</u>
Ionscan 400 Series	5030 Series
Ionscan 500DT Series	6030 Series
	6040 Series
	7555 Series
	9075 Series
	100100 Series
	180180 Series
	BodyScan Series

Don't see your model listed? Call us for price & availability...

EXHIBIT E

(see attached)

PREVENTATIVE MAINTENANCE PROCEDURE

X-RAY Preventative Maintenance Procedure

1. Check condition of all doors, panels, fenders, safety/jump rollers and lens covers.
2. Check condition of all conveyor belts for damage, proper tracking/tension and alignment/leveling.
3. Check for oil leaking from motors or excessive noise from belt. Recommend replacement, if needed.
4. Check and replace defective x-ray on indicators.
5. Open system and check internal condition. Clean dust and dirt from PI Board, Power Supply fans, XRC, LIF and Light barriers.
6. Gently clean the light barrier transmitter and receiver Diodes from the inside of the tunnel.
7. Check the inside of the tunnel and remove any foreign material stuck to inside walls, plastic collimator cover and under the conveyor belt.
8. Perform a full alignment of the X-Ray generator. Adjust the offset and gain of the LIF board either mechanically (LIF 1 units) or via the software (LIF 3 units).
9. Check the high voltage, anode current and heater current values and make adjustments, if necessary.
10. Check the AC line voltage, proper grounding at the AC outlet and the low voltage DC power supply.
11. Check all cables and tighten loose connections.
12. Test and verify that all emergency stops are working properly.
13. Verify that all keyboard controls and buttons are working properly.
14. Test operator foot mat and clean optical attendant sensor and test for proper alignment. (Optional Devices may not be present on all systems).
15. Check, clean and align the VGA monitor.
16. Open all panels/covers for the x-ray conveyor system and remove all debris from the rollers, motor and covers/panels.
17. Perform radiation leakage safety survey. Attach completed radiation form.