

## **Board of Trustees Agenda Item**

**Board Meeting Date:**    October 4, 2010

**Title of Item: Renew contract with Capture Technologies Inc.**

### **Background and Analysis:**

The Board first awarded a contract to Capture Technologies, Inc., on May 2, 2005 in accordance with Invitation to Bid 971. The initial contract term was May 3, 2005 through September 18, 2008. The contract included the purchase of hardware and software as well as the purchase of services for the following: hardware and software maintenance, transaction downloads, cash collection and reconciliation from the cash-to-card machines, management of the Foothill College Card Office, financial reporting, and three days of on-site training per year.

The initial contract expired on September 18, 2008. On October 6, 2008, the Board ratified a new one-year contract with Capture Technologies for the period September 19, 2008 through September 18, 2009 for the same kinds of services provided under the original contract at a total cost of \$169,000. This represented a 5.6% increase in the fees charged by Capture Technologies for these services during the previous year.

A second, one year renewal of the contract was approved by the Board for the period September 19, 2009 through September 18, 2010 at a total cost of \$176,401,61. This represented a 4.4% increase over last year for the same package of services.

In light of the extremely difficult budget challenges faced by the district and the colleges, staff was able to negotiate with the vendor to gain a significant one-year concession on pricing for service. Capture Technologies provides similar services to other public higher education customers and is familiar with our budget plight. They showed very favorable cooperation and consideration towards settling on this year's pricing. For the period September 19, 2010 through September 18, 2011 Capture Technologies has agreed to a total price of \$130,000.00 for all of the same service minus the custom report writing service used by the Central Service Accounting department. The vendor and Accounting department staff have agreed to generate these reports on an as-needed basis that will be charged to the district on an hourly basis. Staff estimates custom reports will not exceed more than \$600.00 to \$800.00 per month in hourly charges and custom reports will not be required every month.

Capture provides the following functionality:

- 1) 'Pay as you go' printing (through GoPrint) in certain computer labs across both campuses
- 2) User authentication in libraries for checking out books
- 3) A source of revenue for the student body governments (based on the sale of the cards)

As of this fiscal year, the campus student organizations have taken over the cost of the contract for providing the student card services. In the coming year, the key stakeholders who are interested in smart card technologies will again engage in deliberations to determine whether this current contract and approach is the most effective means of meeting their needs. These stakeholders are primarily the student body governments and their staff / faculty advisors at both colleges as well as managers in charge of labs that use 'pay as you go' printing. The vice chancellor of Business Services will assist the campus groups in coordinating the search and selection process to ensue that all departments impacted by the choice of vendor such as Accounting and ETS will be able to support whatever system is chosen.

**Recommendation: Approve contract renewal with Capture Technologies Inc.**

Submitted by: Kevin McElroy, Vice Chancellor, ext. 6201

Additional contact names:

Is backup provided?    Yes

**Foothill - De Anza Community College District**  
**INDEPENDENT CONTRACTOR AGREEMENT**

De Anza College ☐ Foothill College ☐ District Office ☐ District PO No: \_\_\_\_\_

This Agreement entered into this 19 day of September, 2010 is made between the Foothill-De Anza Community College District, hereinafter referred to as the "DISTRICT", and the following named independent contractor, hereinafter referred to as the "CONTRACTOR", based upon Board Policies BP 3140, BP3143, AP 3140, and AP3143 and the following legal citations:

- A. Government Code Section 53060 authorizes the engagement of persons to perform special services as independent contractors; and  
B. Public Contract Code 20651 requires advertised sealed bids for public projects of \$15,000 or more and most other services of \$72,400 or more. If sealed bids are required, this form of agreement cannot be used;  
C. Government Code Section 8546.7 provides that the contracting parties for any contract involving expenditure of public funds in excess of \$10,000 shall be subject to examination and audit by the State Auditor for a period of three (3) years after final payment under the contract.  
D. The public interest, convenience, necessity and general welfare will be served by this Agreement.

If this agreement has a total cost that exceeds \$20,000, it is not valid and services shall not commence unless and until the Board of Trustees grants approval. Do not use this form for public project contracts of \$15,000 or more.

**1. CONTRACTOR INFORMATION:**

Contractor's Name Capture Technologies, Inc.  
Address 3575 Alameda Ave. City Oakland Zip 94601  
Business Phone (510) 534-5050 Fax No (510) 534-0202 Home \_\_\_\_\_  
Social Security Number \_\_\_\_\_ \*Fed. Tax I.D. Number 94-2660822  
Business License Number 1073141 \*CONTRACTOR MUST PROVIDE W-9

Are you a current or former employee of the DISTRICT? Yes ☐ No ☒

If yes, date last worked \_\_\_\_\_

If yes, specify last work location \_\_\_\_\_

Work Assignment \_\_\_\_\_

Are you related to any employee(s) in the DISTRICT? Yes ☐ No ☒

If yes, please identify the individual(s) \_\_\_\_\_

**2. CONTRACTOR SELECTION PROCESS:**

Describe how you selected this contractor and why this contractor is the best source for these services. Board Policy 3140 requires at least three written competitive quotations for public projects greater than \$1000 and other purchases greater than \$10,000. If you did not obtain competitive quotes, provide justification. Advertised competitive bidding by District Purchasing Services is legally mandated for most services in excess of the bid threshold (currently \$72,400) and for all public projects of \$15,000 or more pursuant to Public Contract Code 20651.

## 3. CONTRACTOR SERVICES, FEE, AND CONTRACT STARTING AND ENDING DATES:

A. Description of services and deliverables to be provided by contractor (refer to and attach contractor's signed proposal or quotation if possible):

M-F 8x5 maintenance and repair of card system  
Transaction download, cash collection and reconciliation  
from cash-to-card machines. Card office management  
for Foothill-De Anza Community College District,  
Financial reporting 3 days. Annual on-site training.

B. Contractor Fee for Services: \$ 130,000.00

(Indicate a fixed fee to be paid for all of the described services or indicate hourly or other periodic billing rate(s) plus a maximum total dollar cost, i.e. the "not to exceed" amount, to be paid to the contractor. If travel or other expenses will be reimbursed they should conform to Board Policy AP3152.)

Will contractor also be reimbursed for expenses? YES ☐ or NO ☒ If yes, state maximum reimbursement amount to be paid in addition to contract fee shown above:

\$

TOTAL COST OF THIS INDEPENDENT CONTRACT WILL NOT EXCEED \$  
INCLUDING CONTRACTOR TRAVEL OR OTHER EXPENSE REIMBURSEMENTS. [Total cannot exceed \$14,999 for public projects. Board approval required prior to commencement of other services if the total cost exceeds \$20,000.]

C. Contract Starting Date 9/19/10 Contract Ending Date 9/18/11

Note: It is not permissible to split the contracted services into two or more contracts within one fiscal year for the purpose of avoiding the requirement for Board of Trustees approval.

## 4. DISTRICT OBLIGATIONS OTHER THAN PAYMENT, IF ANY:

## 5. PAYMENT TERMS: Unless other payment terms are specified in this section, payment terms are Net 30 days computed either from the date of delivery and acceptance of the contract services or from the date of receipt of correct and proper invoices prepared in accordance with the terms of the contract, whichever date is later.

Due upon receipt

**6. STANDARD TERMS AND CONDITIONS:**

A. CONTRACTOR is solely responsible for the content and sequence of the work. DISTRICT will not provide any training or instruction to CONTRACTOR or its employees.

B. Confidentiality: In performing its duties hereunder the Contractor may from time to time gain incidental access to confidential information and records including student record information as defined by 20 USC section 1232g. The parties agree that such incidental access is not a provision or conveyance or disclosure to contractor of student record information in violation of section 1232g or of any similar state law. Contractor agrees that if in the performance of its duties it does obtain such access it shall refrain from any removal, use or disclosure to any third person of such information and records and shall take any and all necessary affirmative steps to maintain the confidentiality, and avoid such removal, use or disclosure, whether intentional or inadvertent, of such records and information.

C. CONTRACTOR shall indemnify, defend and hold the DISTRICT, its Board of Trustees, officers, agents and employees harmless from any and all claims, damages, losses, causes of action and demands, including reasonable attorney's fees and costs, incurred in connection with or in any manner arising out of CONTRACTOR'S performance of the work contemplated by this Agreement. Acceptance of this Agreement constitutes that the CONTRACTOR is not covered under the DISTRICT'S general liability insurance, employee benefits or worker's compensation. It further establishes that the CONTRACTOR shall be fully responsible for such coverage. Contractor shall maintain in force, throughout the term of this Agreement, insurance as follows:

1. Workers' Compensation (statutory limits) and Employers' Liability insurance with limits not less than \$1,000,000 each accident, \$1,000,000 employee and \$1,000,000 each disease, provided that contractor has employees as defined by the California Labor Code;
2. Commercial General Liability insurance, with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for contractual liability, personal injury, broadform property damage, independent contractors, products and completed operations;
3. Commercial Automobile Liability insurance, with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired vehicles, as applicable;
4. Professional Liability insurance when applicable, with limits not less than \$1,000,000 each claim/annual aggregate, with respect to coverage for errors and omissions arising from professional services rendered under this Agreement, and with any deductible not to exceed \$25,000 each claim.

If any of the required insurance is written on a claims-made coverage form, such insurance shall be maintained for a period of three years following termination of this agreement. General and Automobile liability policies shall include as Additional Insureds, the District, its officers, agents, employees and servants, shall be primary to any other insurance or self-insurance available to the Additional Insureds and shall apply separately to each, except the inclusion of Additional Insureds shall not operate to increase the required limits of such insurance. Contractor shall not commence work under this Agreement until required insurance has been obtained.

D. The CONTRACTOR shall assume all expenses incurred in connection with the performance of this contract and the DISTRICT shall not be responsible for payment of any other expenses. The payment terms specified in Paragraph 3 above, unless otherwise indicated and agreed to in writing by the CONTRACTOR and the DISTRICT, shall be the only obligation of the DISTRICT. While engaged in carrying out and complying with any of the terms and conditions of this Agreement, CONTRACTOR is not entitled to any right or privilege applicable to an officer or employee of the DISTRICT or of the State of California.

E. Any system or documents developed, produced or provided under this contract, including any intellectual property discovered or developed by contractor in the course of performing or otherwise as a result of its work, shall become the sole property of the District unless explicitly stated otherwise in this contract

F. Payments to the CONTRACTOR pursuant to this Agreement will be reported to Federal and State taxing authorities as required. DISTRICT will not withhold any sums from compensation payable to CONTRACTOR. CONTRACTOR is independently responsible for the payment of all applicable taxes. An IRS form 1099 will be provided to the CONTRACTOR at the end of the calendar year.

- G. Payment Of Prevailing Wages: Except for projects of \$1000 or less, if CONTRACTOR provides public project services such as carpet laying or building construction, alteration, demolition or repair CONTRACTOR shall pay all workers on the District project the prevailing wage pursuant to the California Labor Code, Sections 1770 through 1777.7. A copy of the prevailing wage rate determination available online at [www.dir.ca.gov/dlsr/statistics\\_research.html](http://www.dir.ca.gov/dlsr/statistics_research.html). The determination is issued by the California Department of Industrial Relations.
- H. This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations of warranties, expressed or implied, not specified in this Agreement. This Agreement applies only to the current proposal as attached. Modification or termination of this contract requires mutual agreement by both parties.
- I. Upon mutual agreement in writing or the parties hereto, this Agreement may be terminated at any time for any reason.
- J. The parties to the Agreement, under penalty of perjury, hereby certify that all of the above items and attachments are to the best of their knowledge true and correct statements.

AGREEMENT OF CONTRACTOR: I agree to perform the services described above for the payment indicated. I understand that while performing contract services I am not an employee of the Foothill-De Anza Community College District because I follow an independent trade or profession, and will not be subject to control and direction as to the details and means for accomplishing the anticipated result of my service.

Contractor

09/23/10  
Date

APPROVED:

This document certifies that I and my assigns have reviewed the appropriate legal and procedural guidelines pertinent to determination of independent contractor status, including IRS Revenue Ruling 87-41, have analyzed their application to the position described on the accompanying documents, and have concluded that the hiring of the subject individual to perform the functions described does indeed constitute correct and legal independent contractor status.

Authorized College/District Requestor/Budgeter

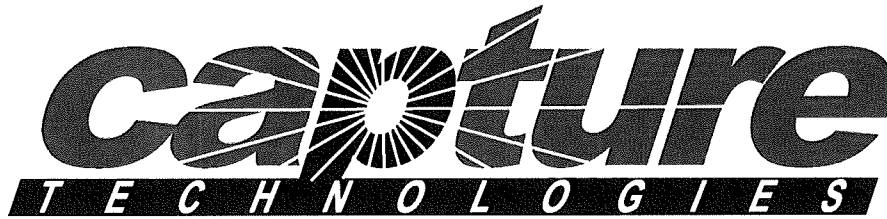
College/District Employee with Authority to Sign Contract

Date

Date

Date Approved by Board of Trustees.

[Required prior to commencement of services if the total cost exceeds \$20,000.]



## **AGREEMENT FOR SERVICES**

### **Foothill-De Anza Community College District**

**September 20<sup>th</sup> , 2010**

The purpose of this document is to extend a reduction in cost to Foothill-De Anza Community College District for services rendered on an annual basis by Capture Technologies, Inc.

Included in the document is a list of the services to be provided from September 19<sup>th</sup> , 2010 thru September 18<sup>th</sup> 2011

The total annual contract is \$130,000

## **Foothill College**

### **FRONT END**

#### **Hardware and ID Software On-site Service**

As per Exhibit A, Terms & Conditions, Full Field Service Agreement for Photo ID Equipment.

#### **Equipment Covered**

- Cash Revaluation Machines
- GoPrint Card Readers
- Copy Terminal Card Readers
- Complete POS Units (device + register)
- POS Unit Only
- Datacard SP-60 and CP-60 Card Printers
- ChipNet3 TCP/IP Vending Terminals

### **BACK END**

#### **Transaction Download**

- Daily POS transaction report for POS machine installed at the Smart Shop.
- Transaction reports that are in the system can be run when requested.
- Perform necessary downloads and validation of transactions from POS terminals.
- Provide necessary reports to associated merchants.
- Provide point of contact person for all transaction reporting.
- District to issue checks and perform necessary accounting functions for each of the merchants listed in the reports.

#### **Technical support of transaction reporting system – unlimited site visits\***

- Health check of ChipNet system, SQL database maintenance.
- Interface maintenance between GoPrint and ChipNet, GoPrint Reporting.
- ChipNet functionality and report continuity verification.

#### **Cash Collection & Reconciliation**

- Money for each location is counted and deposited.
- Once a month a complete summary report is run which details all collections, transactions and printing.
- POS reporting, vending, GoPrint reader reconciliation.
- Technical support for cash reloading devices.

#### **1 day Annual On-Site Training**

- Annual on-site training, for system administration staff, IT staff and Office Administration staff as part of the annual software maintenance renewal.
- Training to emphasize new product releases and features, new techniques, and new best practices process improvements.
- Covers mechanical aspects of the equipment as well as procedural elements currently in use by the college.
- District-wide total equals 3 full days of training, divided over 3 campuses. As an option, training days can be organized in tandem with other FHDC campuses to a total of 3 full days of classroom time in a single location, in succession, if deemed appropriate by campus administration.

## **Middlefield College**

### **FRONT END**

#### **Hardware and ID Software Onsite Service**

As per Exhibit A, Terms & Conditions, Full Field Service Agreement for Photo ID Equipment

**Equipment Covered**

- Cash Revaluation Machines
- GoPrint Card Readers
- Complete POS Units (device + register)
- Datacard SP-60 and CP-60 Card Printers

**BACK END**

**Transaction Download**

- Daily POS transaction report for POS machine installed at the Smart Shop.
- Transaction reports that are in the system can be run when requested.
- Perform necessary downloads and validation of transactions from POS terminals.
- Provide necessary reports to associated merchants.
- Provide point of contact person for all transaction reporting.
- District to issue checks and perform necessary accounting functions for each of the merchants listed in the reports.

**Technical support of transaction reporting system – unlimited site visits\***

- Health check of ChipNet system, SQL database maintenance.
- Interface maintenance between GoPrint and ChipNet, GoPrint Reporting.
- ChipNet functionality and report continuity verification.

**1 day annual on-site training**

- Annual on-site training, for system administration staff, IT staff and Office Administration staff as part of the annual software maintenance renewal.
- Training to emphasize new product releases and features, new techniques, and new best practices process improvements.
- Covers mechanical aspects of the equipment as well as procedural elements currently in use by the college.
- District-wide total equals 3 full days of training, divided over 3 campuses. As an option, training days can be organized in tandem with other FHDC campuses to a total of 3 full days of classroom time in a single location, in succession, if deemed appropriate by campus administration.

**Total for this annual service**

**\$40,000**

**Ongoing Oversight and Management of Capture Card Solution at Foothill**

- Serve as on-site card office manager.
- Manage and train card office staff.
- Support campus on card related issues.
- Maintain card issuance equipment and supplies.
- Serve as the primary point of contact for campus card related issues.
- Report to the director of Student Services and attend such staff meetings.
- Provide regular reports to campus staff.
- Handle all card office related customer services issues.

**Total for this annual service**

**\$50,000**

# **De Anza College**

## **FRONT END**

### **Hardware and ID Software Onsite Service**

As per Exhibit A, Terms & Conditions, Full Field Service Agreement for Photo ID Equipment.

#### **Equipment Covered**

- Cash Revaluation Machines
- GoPrint Card Readers
- Complete POS Units (device + register)
- Datacard SP-60 and CP-60 Card Printers

## **BACK END**

### **Transaction Download**

- Daily POS transaction report for POS machine installed at the Smart Shop.
- Transaction reports that are in the system can be run when requested.
- Perform necessary downloads and validation of transactions from POS terminals.
- Provide necessary reports to associated merchants.
- Provide point of contact person for all transaction reporting.
- District to issue checks and perform necessary accounting functions for each of the merchants listed in the reports.

### **Technical support of transaction reporting system – unlimited site visits\***

- Health check of ChipNet system, SQL database maintenance.
- Interface maintenance between GoPrint and ChipNet, GoPrint Reporting.
- ChipNet functionality and report continuity verification.

### **1 day Annual On-Site Training**

- Annual on-site training, for system administration staff, IT staff and Office Administration staff as part of the annual software maintenance renewal.
- Training to emphasize new product releases and features, new techniques, and new best practices process improvements.
- Covers mechanical aspects of the equipment as well as procedural elements currently in use by the college.
- District-wide total equals 3 full days of training, divided over 3 campuses. As an option, training days can be organized in tandem with other FHDC campuses to a total of 3 full days of classroom time in a single location, in succession, if deemed appropriate by campus administration.

**Total for this annual service**

**\$40,000**

### **Financial Reporting**

- Monthly delivery to Accounting complete summary reports.
- Creation of new reports.
- Verification of accuracy of reports.
- Revision of report criteria, when requested.

### **Technical support of financial reporting system – unlimited site visits**

- Health check of financial reporting system.
- Interface maintenance of financial reporting system.
- Financial reporting system functionality and report continuity verification.

**Financial Reporting and Technical Support of financial system total: This will be billed as a per call service at \$170 per hour for a 3 hour minimum.**



## Terms & Conditions

### Full Field Service Agreement

### Photo ID Equipment

Upon receipt of the signed Full Field Service Agreement (Agreement) and a hard copy of a purchase order, and approval by Capture Technologies in the form of a generated invoice to be paid within 30 days, it is agreed that Capture Technologies will furnish service for **FHDA Community College District**, at the established rate, on the specified **Cash to Card Solution** equipment to insure operating efficiency. This non-refundable Agreement covers the serial number(s) listed on the attached Proposal and/or Inventory List, and consists of the following, all to be performed during the agreed twelve-month period of 9/19/2010 to 9/18/2011.

- ◆ All parts, including drives, interface boards, and system boards necessary to keep the system in proper operating condition, with the exception of camera parts (cameras are irreparable) and consumable supplies such as ribbons or cards.
- ◆ On-line, telephone, and on-site support with interface between camera, software and printer.
- ◆ All labor charges for service calls as required during normal business hours of Monday through Friday, 8:00 a.m. to 5:00 p.m. PT.
- ◆ 8 business hours response time for service calls.
- ◆ Customer scheduled Preventive Maintenance (PM) inspections twice during the coverage period.
- ◆ Unlimited telephone support (M-F 8x5 PT).

It is understood that Agreement does NOT include:

- ◆ Replacement of standard cords, cables, A/C adapters.
- ◆ Any necessary reformatting or repair as a result of the customer's voluntary upgrade or change in operating system or database.
- ◆ Network issues.
- ◆ Reformatting of card design, batch design, layout, etc. after the initial formatting that is paid for and included in the initial installation process.
- ◆ Repairs made necessary by use of non-manufacture parts, cleaning tools, supplies, etc.
- ◆ Repairs made necessary by accident, abuse, fire, water, storm, burglary, self-repair, or any act of God, as well as maintaining, utilizing, and/or storing the equipment in a manner other than instructed (see attached Equipment Environment Requirements).
- ◆ Repairs made necessary by power surges, outages, or any other power issues where equipment is affected due to lack of or insufficient protection by Capture Technologies -approved Uninterrupted Power Supply (UPS).

Any relocation of equipment covered by Agreement may cause equipment to be re-evaluated for coverage qualification and pricing. Relocations performed by Capture Technologies technicians will ensure continued coverage, however this is not a covered service and will be charged at the normal labor rate of \$175/hour with a three-hour minimum. If customer performs relocation, Capture Technologies must be notified and allowed to schedule a non-billable post-move inspection to ensure the equipment still qualifies for coverage. Agreement covers one free post-move inspection per coverage period. If the equipment is found to have been damaged from the move, Agreement will be null and void, with no refund, until the equipment is repaired at the customer's expense.

The operator-replaceable print head is not covered by Agreement. The print head is covered by a standard twelve-month warranty from Datacard, with no printing limit, from date of installation. If a Capture Technologies technician determines a new print head is required, customer will be notified and have the option to purchase one through Capture Technologies; installation of the new print head will be a billable call at the normal labor rate of \$175/hour with a three-hour minimum.

Exceeding the production capacity of the equipment covered by Agreement will exclude it from the terms of Agreement. Under special circumstances, the rate may be adjusted to cover increased production needs, if approved by a Capture Technologies technical supervisor.

Additional components purchased during Agreement period may be added at a pro-rated amount to correspond with Agreement anniversary date. Either party may terminate this Agreement with or without cause by providing THIRTY (30) days notice, in writing, to the other party.

From time to time the manufacturer will notify us that a certain piece of equipment has reached the determined "end of life". Once we receive the notification, the manufacturer will no longer support said equipment after this date. In such cases, you will be notified so appropriate steps can be taken to replace the equipment. Once a piece of equipment reaches its "end of life" we can no longer guarantee that we will be able to get parts for the machine, however we will do everything in our power to keep the equipment in working order.

If it is determined by Capture Technologies' service engineers that a piece of equipment is beyond economical repair or if parts become unavailable, the remainder of the service agreement will be credited to coverage on a new piece of equipment.

# Equipment Environment Requirements

## Photo ID Equipment

In order to maintain optimal operation, review and follow the environmental guidelines in the manual that accompanied your equipment. For your easy reference, we have highlighted some important requirements. This list is not comprehensive, nor necessarily designed for your exact machine, but rather a general guideline for all models falling under the above equipment type. You are responsible for maintaining your machine in the manner specifically described in your manual.

- ◆ Equipment should never be placed on the floor, even for storage.
- ◆ Equipment should reside in a temperature-controlled space, where temperature does not fall outside the range of 55 – 95 degrees Fahrenheit. (If stored, temperature should not fall outside the range of 0 – 100 degrees Fahrenheit.)
- ◆ Equipment should reside in a non-condensing space, where humidity does not fall outside the range of 20% - 80%.
- ◆ Equipment should reside indoors and in such a space where it will not be exposed to excess dirt and dust.
- ◆ Equipment should have adequate space on all sides, should not be placed on top of another piece of equipment nor have anything else on top of it, unless specifically approved in the manual and/or by a Capture Technologies technician.