



Econolite Systems

Thousand Oaks, California

Centracs Mobility Service Agreement

May 9, 2024

Econolite Systems, Inc. is pleased to offer you the following quotes at the prices and terms set forth in this letter and subject to agreement on terms in any resultant contract/agreement.

DPW: 821-30\rslev\Council\050724\Transportation Management System Software Upgrade Att 1.pdf

ITEM #	Item Description	Unit	Qty	Unit Price	Total
1	Centracs Mobility – System Service	Yr.	2	\$29,200	\$58,400
	Included: Econolite Systems quote includes pricing to supply the following items. <ul style="list-style-type: none">• Provide Centracs Mobility Essentials, Timing, and Edaptive service for up to 50 intersections for 2 years. Not Included: Any of the following is not included within Econolite Systems' quote: controllers, firmware, database conversions; communications or any spare equipment. Note: a 5% service discount is available for a prepaid term of 3 or 4 years, with a 10% service discount on prepaid terms of 5 years or more. The Mobility service period will commence on the date the first intersection/device is brought on-line in Mobility or 30 days after the Mobility website becomes active, whichever comes first. However, in no circumstance shall the Mobility service period commence later than 90-days from issuance of PO for Mobility service. Mobility service is provided subject to the attached Internet Hosted Terms of Use.				
				Total Price	\$58,400

Coverage Effective: _____, 2024

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of _____, 2024.

CITY OF THOUSAND OAKS, CA:

APPROVED BY DEPARTMENT HEAD:

Andrew P. Powers, City Manager

Clifford G. Finley, Public Works Director

ATTEST:

APPROVED AS TO FORM:
Office of the City Attorney

Laura B. Maguire, City Clerk

Tracy Friedl, Assistant City Attorney

ECONOLITE SYSTEMS, INC.:

Signature

Marc A. Porter

Print

Vice President

Title

Econolite Mobility Internet Hosted Services Terms of Use

IMPORTANT! READ CAREFULLY:

This ***Econolite Mobility Internet Hosted Services Terms of Use*** (“Use Agreement”) is a legal agreement between End User (“End-User”) and Econolite Systems, Inc. (“Econolite”) for any and all Econolite Mobility Internet Hosted Service offerings, including but not limited to Signal Performance Measures (“SPM”), Maintenance Management System (“MMS”), and Edaptive (collectively “Services”). By clicking the “I Accept” button or otherwise accepting this Use Agreement through an ordering document that incorporates this Use Agreement (“the Ordering Document”), you agree to follow and be bound by the terms and conditions herein. If you do not agree to the terms of this Use Agreement, you must select the “I Decline” button and not access and use the Services.

Application of the Agreement. This Use Agreement is valid for the period of time set forth in the Ordering Document which this Use Agreement accompanies. This Use Agreement may also be referenced for any purchase that increases the quantity of the original Services ordered and any renewal term. This Use Agreement shall apply to an Ordering Document between End User and Econolite or End User and an authorized Econolite distributor.

Rights Granted. For the duration of the Services period set forth in the Ordering Document and subject to payment obligations to Econolite, and except as otherwise set forth in this Use Agreement, Econolite grants End User the following rights:

Scope of Use. Econolite grants End User a non-exclusive, non-assignable, royalty free, worldwide limited right to access and use the Services ordered by End User, including anything developed by Econolite and delivered as part of the Services, solely for End User’s internal business operations and subject to Econolite’s Service Specifications and Service Levels Agreement, which can be found at <https://econolitegroupinc.box.com/s/yegth3y3x3oelnq7knobcb3l20b2v34j>. End User may allow End User’s users to use the Services as set forth in your Ordering Document. This Agreement does not grant End User any intellectual property rights in the Services or any of its components. Econolite retains all right, title, and interest in and to the Services, including, without limitation all Econolite software used to provide the Services, and all graphics, user interfaces, logos, and trademarks reproduced through use of the Services.

- **Documentation.** End User may reproduce and use any provided documentation solely as necessary to support End User’s use of the Services. Econolite retains right, title and interest in all of its copyrighted material, logos and trademarks.
- **Software Updates.** End User will receive software updates for the Services as needed during term of the Agreement. This does not automatically include the right to receive upgrades, reissues, or releases of new product modules by Econolite for its Internet Hosted Service offerings. Econolite in its own discretion will determine whether and on what terms any upgrade, reissue or new product release is made available to existing End Users. At Econolite’s sole discretion, some new enhancements may be included in the software updates, and some new functionality may only be available as separately purchased and licensed modules.

Technical Support. Technical support and service from Econolite shall be provided by telephone, email or other remote methods and does not include on-site support.

- Technical support hours of operation: 8:00am to 5:00pm (*Mountain Time*) / Monday – Friday except for holidays recognized by Econolite. *Support requests received outside normal hours of operation are generally responded to the next business day.*
- Technical Support Contact Information:
Local Account Manager or,
Phone: 714.630.3700 or 800.225.6480 or,
Online at www.econolite.com

End User Data & Privacy.

- End User's Data Rights. End User shall retain ownership and associated rights of all End User Data subject to Econolite's right to use as set forth below. For purposes of this Agreement, "End User Data" means high-resolution data created on End User's traffic controllers in electronic data file form, data originating from detection devices, and data from system activity logs, and MMS data, such as asset management data and work order data. End User Data does not include any proprietary data sets or derivative data sets created by the Services. Within ninety (90) days of a written request from End User, Econolite shall purge End User Data stored as part of the Services or make available stored End User Data to End User, provided that End User supplies the necessary data storage capability and submits payment covering the reasonable costs associated with the data transfer. Unless End User requests a data transfer within seven (7) days of termination of this Agreement, and complies with the data transfer requirements, Econolite may purge all stored End User Data in connection with the Services.
- Econolite's Use of End User Data. At all times, Econolite shall have the right to store, process, and analyze End User Data as required by the functionality of the Services. Aggregate, intermediate, derived, and distilled data resulting from the processing and analysis of End User Data, or other non-End User Data that is stored as part of the Services, is the property of Econolite. In addition, Econolite, in its sole discretion, may use, reproduce, sell, publicize, or otherwise exploit Aggregate and Anonymized End User Data. For purposes of this Agreement, "Aggregate and Anonymized End User Data" refers to End User Data with the name and address of End User and any of its authorized Users removed. Econolite shall have the right to grant access to End User Data to subcontractors and affiliates, as necessary, to facilitate the Services. In furtherance of Econolite's commitment to the advancement of future traffic management technologies and the betterment of the nation's traffic management planning, Econolite shall have the right to access, process and use End User Data for research or commercial purposes. Econolite may disclose End User Data as required by applicable law or by proper legal or governmental authority. Econolite shall give End User prompt notice of any such legal or governmental demand and reasonably cooperate with End User, at End User's expense, in any effort to seek a protective order or otherwise to contest such required disclosure.
- Risk of Exposure and Storage Failure. End User acknowledges and agrees that hosting data online involves risks of unauthorized disclosure or exposure and of system failure that could result in loss of online End User Data and that End User assumes such risks in accessing and using the Services. While Econolite will make every reasonable effort to protect and retain End User Data, Econolite

offers no representation, warranty, or guarantee that End User Data will not be exposed or disclosed through errors or the actions of third parties or will be retained and available.

- **Data Accuracy.** Econolite shall have no responsibility or liability for the accuracy of data uploaded by End User for use with the Services, including without limitation End User Data and any other data uploaded by End User users.
- **Adaptive Traffic Control.** End User acknowledges and agrees that the use of Econolite's Edaptive module will apply real-time changes to traffic controllers, and that Econolite offers no representation, warranty, or guarantee as to the level of performance of these changes. End User acknowledges and agrees that external factors such as End User's detection devices, End User's field communications, and End User's traffic controller configuration effect the level of performance and correct operation of the Edaptive module. Econolite shall have no responsibility or liability based on the failures, defects, or other performance issues of any external factors.
- **Excluded Data.** End User represents and warrants that End User Data does not and will not include, and End User has not and shall not upload or transmit to Econolite's computers or other media, any data ("Excluded Data") in violation of any local, state, or federal laws (the "Excluded Data Laws"). END USER ACKNOWLEDGES AND AGREES THAT: (a) ECONOLITE HAS NO LIABILITY FOR ANY FAILURE TO PROVIDE PROTECTIONS SET FORTH IN THE EXCLUDED DATA LAWS OR OTHERWISE TO PROTECT EXCLUDED DATA; AND (b) ECONOLITE'S SYSTEMS ARE NOT INTENDED FOR MANAGEMENT OR PROTECTION OF EXCLUDED DATA AND MAY NOT PROVIDE ADEQUATE OR LEGALLY REQUIRED SECURITY FOR EXCLUDED DATA.

End User's Acceptable Use.

- **Acceptable Use.** End User shall not: (a) use the Services for service bureau or time- sharing purposes or in any other way allow third parties to exploit the Services; (b) provide Services passwords or other log-in information to any third party; (c) share non-public Services features or content with any third party; or (d) access or permit access to the Services in order for End User or any third-party to build a competitive product or service, to build a product using similar ideas, features, functions or graphics of the Services, or to copy any ideas, features, functions or graphics of the Services. In the event Econolite suspects any breach of the requirements of End User's Acceptable Use, including without limitation by End User's users, Econolite may suspend End User's access to the Services without advanced notice, in addition to such other remedies at law and in equity as Econolite may have.
- **Unauthorized Access.** End User shall take reasonable steps to prevent unauthorized access to the Services, including without limitation by protecting its passwords and other login information. End User shall notify Econolite immediately of any known or suspected unauthorized use of the Services or breach of its security and shall use best efforts to immediately remedy and mitigate the effects of said breach. Econolite may suspend system connection to End User until such as time as End User breach has been remedied.
- **Compliance with Laws.** In its use of the Services, End User shall comply with all applicable laws, including without limitation laws governing the protection of personally identifiable information and other laws applicable to the protection of End User Data.

- **Users & System Access.** End User is responsible and liable for: (a) End User's use of the Services, including without limitation unauthorized user conduct and any user conduct that would violate requirements of this Agreement applicable to End User; and (b) any use of the Services through End User's account, whether authorized or unauthorized.
- **Support Obligations for Traffic Signal Services.** End User shall provide controllers and firmware that work with the Services, including end-to-end operational IP-based communications to the traffic signal controller; a server with internet access to allow for the upload of collected data from the use of the Services; and VPN and/or remote access to the server. End User shall provide any information relating to timing/phase sheets, intersection geometries and connectivity, lane configurations, detector placements and assignments along with any other information needed for the Services.

Warranty Disclaimer. Except to the extent set forth in Econolite's Service Level Agreement, as modified from time to time, END USER ACCEPTS THE SYSTEM "AS IS" AND AS AVAILABLE, WITH NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING: (a) ECONOLITE HAS NO OBLIGATION TO INDEMNIFY OR DEFEND END USERS AGAINST CLAIMS RELATED TO INFRINGEMENT OF INTELLECTUAL PROPERTY; (b) ECONOLITE DOES NOT REPRESENT OR WARRANT THAT THE SYSTEM WILL PERFORM WITHOUT INTERRUPTION OR ERROR; AND (c) ECONOLITE DOES NOT REPRESENT OR WARRANT THAT THE SYSTEM IS SECURE FROM HACKING OR OTHER UNAUTHORIZED INTRUSION OR THAT AGENCY DATA WILL REMAIN PRIVATE OR SECURE.

Software Copyright. The software used to provide the Services is protected by copyright laws and international treaty provisions. Therefore, End User must treat the software like any other copyrighted material. End User may not copy the printed materials accompanying the software.

Restricted Rights Legend. Any software which is provided for or on behalf of the United States of America or for or on behalf of Licensee, their agencies and/or instrumentalities ("U.S. Government") is provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in Federal Acquisition Regulations subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer SOFTWARE clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer SOFTWARE - Restricted Rights at 48 CFR 52.227-19, as applicable. The manufacturer is Econolite, 1250 N. Tustin Ave., Anaheim, CA 92807 (714) 630-3700. ANY RIGHTS NOT EXPRESSLY GRANTED HEREIN ARE RESERVED.