

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>		1. CONTRACT ID CODE	PAGE OF PAGES <b>1</b>   <b>3</b>	
2. AMENDMENT/MODIFICATION NO. <b>P00063</b>	3. EFFECTIVE DATE <b>21 April 2004</b>	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)	
6. ISSUED BY <b>COMMANDER SPACE AND NAVAL WARFARE SYSTEMS COMMAND 4301 PACIFIC HIGHWAY SAN DIEGO, CA 92110-3127 Joel Judy, 02-21M (619) 524-7179, joel.judy@navy.mil</b>	CODE <b>N00039</b>	7. ADMINISTERED BY (If other than Item 6) <b>DCMA-SOUTHERN VIRGINIA 190 BERNARD ROAD, BLDG. 117 FORT MONROE, VA 23651</b>	CODE <b>S5111A</b>	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State, and ZIP Code) <b>AVAYA INC. 5440 MILLSTREAM ROAD McLEANSVILLE, NC 27301</b>		<input checked="" type="checkbox"/>	9A. AMENDMENT OF SOLICITATION NO.	
<b>Send Orders to: Denice Parker: Phone 336-574-7528 Fax 336-574-7581</b>		<input type="checkbox"/>	9B. DATED (SEE ITEM 11)	
		<input checked="" type="checkbox"/>	10A. MODIFICATION OF CONTRACT/ORDER NO. <b>N68939-97-D-0040</b>	
CODE <b>1SBH3</b>	FACILITY CODE	<input checked="" type="checkbox"/>	10B. DATED (SEE ITEM 13) <b>29 July 1997</b>	
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS				

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers  is extended,  is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning \_\_\_\_\_ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; of (c) By separate letter of telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

**To Be Specified on the Individual Delivery Orders**

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

<input checked="" type="checkbox"/>	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A. (Specify authority) THE CHANGES
<input type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b)
<b>X</b>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: <b>Mutual Agreement of the Parties</b>
<input type="checkbox"/>	D. OTHER

E. IMPORTANT: Contractor \_\_\_ is not X is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

See attached page

**Continued on Page 2**

15A. NAME AND TITLE OF SIGNER (Type of print): <b>J. K. Sheek, III Regional Contracts Manager</b>		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or Print) <b>CARLA J. BROWN</b>	
15B. CONTRACT/OFFEROR  (Signature of person authorized to sign)	15C. DATE SIGNED 23 April 2004	16B. UNITED STATES OF AMERICA  (Signature of Contracting Officer)	16C. DATE SIGNED 4/23/04

1. The purpose of this modification is to update Section G.20 to reflect changes to the contract usage fee as mutually agreed to by the parties. As a result, Section G.20 of the basic contract is hereby deleted in its entirety and replaced with the following:

## **G20 CONTRACT USAGE FEE**

G20.1 All CLIN/SCLIN prices in this contract include the fee where applicable, which supports the Navy Umbrella Contracts Program and other working capital fund agencies with which a fee sharing agreement is in place. This fee allows the contract sponsors, to recover the expenses of awarding and managing this and other contracts under the Navy Umbrella Contracts Program. The application and amount of this fee, as included in contract unit prices, are at the sole discretion of the Navy, and are not subject to dispute. The Navy agrees to reduce the Contract Usage Fee charged to Air Force orders by 50%. This reduction of the Contract Usage Fee is to be annotated on each delivery order and will apply to all new Air Force delivery orders as well as to all orders not yet invoiced.

G20.2 By the 10<sup>th</sup> calendar day after the completion of each month, SPAWAR Systems Center (SSC) Charleston Norfolk Office will provide Avaya with a notice that lists all of the ViViD Delivery Orders issued to Avaya by Government Ordering Offices during the previous month, the value of the Delivery Orders, and their Government Tracking Numbers. In response to this notice and by the 15<sup>th</sup> calendar day after the completion of each month, Avaya will provide a notice to SPAWAR Systems Center (SSC) Charleston Norfolk Office that either confirms or disputes that Avaya received all of the orders identified by SPAWAR Systems Center (SSC) Charleston Norfolk Office during the previous month. By the 30<sup>th</sup> calendar day after the completion of each quarter, Avaya will provide to SPAWAR Systems Center (SSC) Charleston Norfolk Office a file indicating the following for each of the Delivery Orders that Avaya received during the previous quarter:

ViViD Delivery Order Number

Government Tracking Number

Customer Name

Delivery Order Status:

Open – (more invoices will be issued against this DO after the current report period)

Closed – (no more invoices will be issued against this DO after the current report period)

Date DO Received by Avaya

\$ Amount of the DO

Act Fee % for the DO

\$ Amount Invoiced

Date Invoiced Note: Multiple invoices rendered against a DO will have a line for each invoice occurrence.

\$ Amount invoiced against the DO to date

Act Fee Paid Navy for the invoice

Date Act Fee paid Navy

Remaining \$ amount to be invoiced against the DO

Remaining Act fee Navy to be paid against the DO

G20.3 By the 30<sup>th</sup> calendar day after the completion of each quarter, the Contractor shall remit applicable Contract Usage Fees associated with the delivery orders that the Contractor invoiced to the Government during the previous quarter to SPAWAR Systems Center (SSC) Charleston Norfolk Office. The Contract Usage Fee amount due Navy shall be paid by check made payable to "Treasurer of the United States," and forwarded to:

Regular US Post Office:

SPAWAR SYSTEMS CENTER CHARLESTON, NORFOLK OFFICE  
Code 645.2, Bldg. V-53  
Attn: E. Vonasek  
PO Box 1376  
Norfolk, VA 23501-1376

Overnight services:

SPAWAR SYSTEMS CENTER CHARLESTON, NORFOLK OFFICE  
Code 645.2, Bldg. V-53  
Attn: E. Vonasek  
9456 Fourth Avenue  
Norfolk, VA 23511-2130

To ensure that the payment is credited properly, the Contractor shall identify the check as "Contract Usage Fee - Avaya ViViD Contract."

G20.4 Reserved

G20.5 If the Contractor fails to remit the Contract Usage Fee in the manner and amount specified in G20.3, the amount shall be considered a debt to the United States Government under the terms of FAR 32.6. The Government may exercise all its rights under the contract, including withholding or setting off payments and interest on the debt (see contract FAR Clause 52.232-17, Interest.)

G20.6 Failure by the Contractor to pay the Contract Usage Fee in a timely manner may result in termination of the contract. Willful failure or refusal to make timely payment of the Contract Usage Fee constitutes a cause for terminating the contract for default under FAR 52.249-8 Default (Fixed Price Supply and Service).

2. Except as provided herein, all other terms and conditions of contract N68939-97-D-0040 remain unchanged and in full force and effect.

This modification constitutes the entire understanding between the parties and supercedes the terms and conditions of all other prior or contemporaneous oral or written agreements between the parties. Failure by either party to enforce any of the provisions of this modification shall not be construed as a waiver by such party of any such provisions, nor shall such failure affect the validity and enforceability of this modification in any way.