

NAVAJO COUNTY AGENDA ITEM REQUEST FORM

Meeting Date: May 26, 2015	Time Needed:										
Requesting Department: Sheriff's Office	Presenter(s) Name: Sheriff KC Clark										
Motion before the Board: Consideration and possible approval of a contract with ERAD Group, Inc. for equipment and training to read preloaded debit cards.											
Recommendation: (who, what, where, when, how, etc.)											
<p>Background: (why should it be done, what will happen if not approved, etc. include resolution)</p> <p>Contract allows for the Sheriff's Office to enter into an agreement with the ERAD company which will provide equipment and training to read preloaded debit cards that are often found during drug investigations. The preloaded cards is how money launderers move their ill-gotten gains.</p>											
<p>Fiscal Impact: (what will it cost, where funds will come from, is it budgeted, etc.)</p> <p>Cost to be funded by the RICO account approved by the MCAT board</p>											
Reviewed and approved by:	<table style="width: 100%; border: none;"> <tr> <td style="text-align: center; width: 16.6%;">County Manager</td> <td style="text-align: center; width: 16.6%;">County Attorney</td> <td style="text-align: center; width: 16.6%;">Human Resources</td> <td style="text-align: center; width: 16.6%;">Finance</td> <td style="text-align: center; width: 16.6%;">IT</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	County Manager	County Attorney	Human Resources	Finance	IT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<p>Board Action Taken</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center; width: 20%;">Approved</td> <td style="text-align: center; width: 20%;">Denied</td> <td style="text-align: center; width: 20%;">No Action</td> <td style="text-align: center; width: 20%;">Continued</td> <td style="text-align: center; width: 20%;">Continued to:</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;">_____</td> </tr> </table>		Approved	Denied	No Action	Continued	Continued to:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Approved	Denied	No Action	Continued	Continued to:							
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<p>Approved with changes as follows: _____</p>											
Clerk's Notes											
Date:	Initial:										

REMINDER: Email this coversheet and all backup documentation to **BOS.Clerk** by **Noon the Tuesday before the BOS meeting.**



ERAD-PREPAID™ RIDER TO MASTER AGREEMENT

This **ERAD-PREPAID** Rider ("Rider") is made pursuant to, and is a part of, the Master Agreement ("Agreement") between ERAD Group, Inc. ("EGI") and Navajo County Sheriff's Office ("Agency") dated Type Date of Agreement.

1. **Introduction.** Upon establishing probable cause, Agency will use EGI's **ERAD-PREPAID** software ("Product") to access the client processing service ("Client Processing Service") and terminal application(s) ("Terminal Application(s)") described in Exhibits A and B respectively to this Rider (collectively, the "Payment Processing Service") in order to: (i) identify the monetary amount of funds stored on prepaid access cards and other prepaid access devices; and (ii) freeze or seize funds on prepaid access cards and other prepaid access devices for subsequent deposit to an authorized depository account owned and controlled by Agency.

2. **Term.** This Rider is effective as of Type Date of Rider ("Rider Effective Date"), and shall remain in effect for an initial period of five (5) years ("Initial Period"). After the Initial Period, this Rider shall be extended automatically for successive three (3) year periods. Either party may terminate this Rider as of the end of the then-current period by giving written notice at least ninety (90) days prior to the end of the that period.

3. **Fees.** In addition to any fees set forth in the attached Exhibits, Agency shall pay EGI the following fees:

Implementation Fee

~~\$500.00~~ **Waived**

Balance Inquiry and Freeze Fee

\$0.00 per balance inquiry transaction processed using the Products.
\$0.00 per freeze transaction processed using the Products.

Seizure Fee

5.7 % of the total dollar amount seized using the Products.

Repatriation of Funds

\$15.00 per prepaid debit card issued

EGI Pass-Through Fees

Agency must pay any fees, anticipated returns, fines or other third party charges associated with use of the Product (collectively, "Pass-Through Fees") including but not limited to; chargebacks, retrievals and fines.

4. **Payment Terminals and the Payment Processing Service.** Agency shall use the Product with the payment processing terminal(s) described in Exhibit B (individually, "Payment Terminal" and collectively, "Payment Terminals") to access the Payment Processing Service. Agency acknowledges that the Payment Processing Service and any bundled services associated with a Payment Terminal is a Third Party Service as defined in the Agreement, and that Agency's rights and obligations associated with same are set forth entirely in Agency's agreements in Exhibits A and B.

5. **License.**

5.1 Agency shall utilize the Product as provided by EGI on the Payment Terminal(s) and/or virtual terminal(s) (i.e., website) in accordance with the instructions and Specifications provided by EGI. Accordingly, and subject to full payment of all applicable fees when due, Agency is granted a limited, non-exclusive, nontransferable license to use the Product to access the Payment Processing Services solely to: (i) identify the monetary amount of funds stored on prepaid access cards and other prepaid access devices confiscated from criminal suspects; and (ii)

freeze and seize funds associated with prepaid access cards and other prepaid access devices confiscated from criminal suspects. In no event shall Agency use the Product for any credit or debit related purchases. Agency shall have accepted the Product if: (a) it fails to give EGI written notice of any such material failure within that thirty (30) day period; or (b) uses the Product. EGI shall periodically provide access to releases for Agency's installation that update Product to the most current level maintained by EGI. Agency must always maintain Product at the most current release level. EGI shall have no liability for any loss, claim, demand, penalty, action, cause of action, suit, obligation, liability, damage, delay, cost, expense or attorney's fees, (collectively "Losses") arising out of Agency's failure to maintain Product at the most current release level.

5.2 Except as specifically permitted in the applicable Specifications, Agency shall not directly or indirectly: (i) lease, rent, assign, sublicense, transfer, disclose, provide, sell, market, distribute, reproduce or copy the Products; (ii) use or allow the Products to be used by or for the benefit of any third-party, including, without limitation, any successor, parent, affiliate, subsidiary or related agency; (iii) use the Product in a time-sharing arrangement or in the operation of a service bureau; (iv) modify, revise, delete or make additions to the Products; (v) reverse engineer the Products.

5.3 Agency shall keep the Products free and clear of any claim, lien or encumbrance, and any attempt to create a claim, lien or encumbrance on the Products shall be void from its inception. Agency shall be responsible for safeguarding the Products, and shall immediately notify EGI of any unauthorized possession or use.

5.4 EGI may, at its option, enhance Product functionality, utility or efficiency by producing new versions. EGI shall notify Agency of the terms and conditions, including additional charges, if any, required to license and/or maintain such new versions. Any modifications, revisions, deletions or additions to the Product shall be owned exclusively by EGI.

6. **Data Security.** Agency shall be solely responsible for the security of any network, platform or device used to access the Product. EGI shall provide commercially reasonable assistance with passwords used to access the Product, but all password administration, deletions, changes and ongoing oversight shall be the sole responsibility of Agency.

7. **Exclusivity.** EGI shall be the sole and exclusive provider of the Product to Agency and its affiliates, and neither Agency nor any of its affiliates shall engage a third party to provide the same or similar service, nor shall Agency provide same on its own behalf.

8. **Termination.** In addition to the termination rights provided in the Agreement, this Rider is terminable by EGI if: (i) Agency fails to have probable cause for use of the Product; (ii) Agency uses the Product for a purpose or in any fashion that is inconsistent with the express provisions of this Rider; or (iii) Agency's use of the Product is ruled illegal, in whole or in part, by any court.. For the purpose of this Rider, the definition of "Early Termination" set forth in the Agreement is amended to include termination of this Rider by EGI as a consequence of the events described in this subsection.

9. **Definitions and Conflicts.** All capitalized terms not specifically defined in this Rider shall have the same meaning as in the Agreement. In the event of a conflict between the terms of this Rider and the Agreement, this Rider shall control.

NAVAJO COUNTY SHERIFF'S OFFICE

ERAD GROUP INC.

Signature

Signature

Kelly Clark, Sheriff

T. Jack Williams, President

EXHIBIT B-1

Purchased Terminal Bundled Solution Agreement

Section 1. Purchased Terminal Bundled Solution Description

1.1 Overview. EGI, shall provide the Purchased Terminal Bundled Solution (PTBS) to Agency in accordance with this Exhibit B-1. Each PTBS Solution consists of a VeriFone terminal device and VeriFone's PAYware Connect with data encryption, bundled with remote terminal management with automated downloads via VeriCentre, Support Services, Buyer Protection Plan Services or Repair Services, whichever the case may be, Priority Exchange Services and VeriFone Connect Services (all such services referred to herein as the "**Services**"), each as further described in this Exhibit B-1. Device types that will be made available as part of the PTBS Solution are as set forth below (**Devices**). Agency acknowledges that EGI has contracted with VeriFone and with third parties for certain devices and services being provided hereunder, as specified in Exhibit B-2 (the "**Third Party Products and Services**").

1.2 Intentionally Omitted

1.3 Service Term. A minimum service term of three (3) years applies to each PTBS Solution (which includes the first Device) per Agency location, and separately for each additional Device at such location, as set forth in Exhibit B-2 (the "**Minimum Service Term**"). Such Minimum Service Term commences on the earlier of (a) the date a Device is activated on the PAYware Connect Gateway, or (b) two (2) months after EGI ships such Device. At the termination of the Minimum Service Term for each Device, several options are available to Agency with respect thereto, as set forth in Exhibit B-2. If Agency elects to continue the PTBS Solution for such Device, then, subject to Section 13 of the Agreement (Term and Termination) and Section 3 in Exhibit B-2, EGI shall continue to provide the PTBS Solution for such Device until such time as Agency deactivates such Device (the "**Additional Service Term**" and with the Minimum Service Term, the "**Service Term**"); any such deactivation shall be effective immediately. Notwithstanding the foregoing, EGI reserves the right to terminate the PTBS Solution for any Device by providing 30 days written notice thereof to Agency at any time during the Additional Service Term for such Device.

1.4 Intentionally Omitted

Section 2. Software License

2.1 License to Device Software. EGI hereby grants Agency a non-exclusive, non-transferable limited license (a) to use the Device software (in object code form only) and/or documentation together with the Devices provided by EGI for the sole purpose of using such Devices, subject to the provisions in any separate license agreement or other document (relating to such software and/or documentation) supplied by EGI to Agency.

Section 3. Expiration or Termination

3.1 Termination of PTBS Solution. EGI shall have the right to terminate this Exhibit B-1 at any time upon ninety (90) days prior written notice to Agency if EGI ceases to offer the PTBS Solution to its customers generally. Upon any such termination: (a) Agency's right to order the applicable PTBS Solution shall terminate, (b) EGI shall no longer provide such PTBS Solution to Agency as of the termination date, and Agency's payment obligations shall terminate.

3.2 Termination of Third Party Products and Services. EGI shall have the right to terminate any Third Party Product or Third Party Services that may be included in the PTBS Solution at any time upon written notice to Agency if EGI's agreement with its product supplier or service provider terminates. EGI shall use commercially reasonable efforts to provide Agency with sixty (60) days written notice of any such termination; however, Agency acknowledges that EGI may not be able to provide such notice under its contractual arrangement with its service provider.

3.3 Effect of Expiration. Upon expiration of the Agreement or upon termination of the Agreement by either party: (a) Agency's right to order the PTBS Solution shall terminate, (b) EGI shall continue to provide the PTBS Solution to Agency with respect to their Devices through the remaining term, (c) EGI shall continue to provide the PTBS Solution to Agency for any Additional Service Terms, subject to termination by Agency by deactivation of the applicable Device or termination by EGI upon written notice.

3.4 Effect of Termination for Breach. In the event of termination of the Agreement for breach by EGI, the effect of termination for such breach shall be the same as the effect of expiration as set forth in Section 3.3 above. In the event of termination of the Agreement for breach by Agency, the effect of termination for such breach shall be the same as the effect of expiration as set forth in Section 3.3 above.

EXHIBIT B-2

Purchased Terminal Bundled Solution Pricing

Fees for Purchased Terminal Bundled Solution:

The fee amount is based on the specific Device models included

Table 1.0 PTBS Solution Pricing

PTBS Bundle #1	Price
<ol style="list-style-type: none">1. One (1) VX680 GPRS Terminal w/battery, thermal printer2. ERAD software license and Terminal User Guide3. One (1) ERAD Virtual Terminal seat license with reporting tool access4. Three (3) year Priority Exchange Services5. Three (3) year wireless connectivity and processing gateway access for prepaid access card transactions via VeriFone Connect GPRS Wireless Service6. Three (3) year next-day Repair Service if damaged during normal use.7. Excludes applicable sales tax and UPS ground freight	\$1,595.00

PTBS Bundle #2	Price
<ol style="list-style-type: none">1. One (1) VX680 WI-FI Terminal w/ battery, thermal printer2. ERAD software license and Terminal User Guide3. One (1) ERAD Virtual Terminal seat license with reporting tool access4. Three (3) year Priority Exchange Services5. Three (3) year processing gateway access for prepaid access card transactions6. Three (3) year next-day Repair Service if damaged during normal use.7. Excludes applicable sales tax and UPS ground freight	\$1,295.00

PTBS Bundle #3	Price
<ol style="list-style-type: none">1. One (1) VX520 dial/IP Terminal w/power cord, thermal printer2. ERAD software license and Terminal User Guide3. One (1) ERAD Virtual Terminal seat license with reporting tool access4. Three Year Priority Exchange Services5. Three (3) year processing gateway access for prepaid access card transactions6. Three (3) Buyer Protection Plan (BPP) next-day repair service if damaged during normal use.7. Excludes applicable sales tax and UPS ground freight	\$795.00

Other Services	Price
<ol style="list-style-type: none">1. Expedited shipping (excludes air delivery charges)2. Returned terminal for incorrect address/information3. Mini magnetic stripe card reader4. Magnetic stripe port sharing software license5. Additional Virtual seat license for transaction processing and report access per year. Internet access required for online portal	\$35.00 each \$25.00 each \$39.00 each \$29.00 each \$120.00/year

Pricing Notes:

- (a) One device is included in each Bundle. Certain devices are only available in the United States.
- (b) Priority Exchange Services are only available to clients in the United States.
- (c) Buyer Protection Plan (BPP) provided for Countertop devices. Repair Services provided for mobile handheld devices.
- (d) Help Desk Support is available to Agency for VeriFone products and services provided with the PTBS Bundles. For any Third Party Product or Service, EGI may extend Help Desk Support to such Third Party Product or Service, or the third party may provide direct support to the customer. The support terms for such Third Party Products and Services are available from EGI upon request.
- (e) For VeriFone's VX devices, VeriShield encryption is supported.
- (f) PTBS Bundle prices are based on IP transactions. A Dial Surcharge of \$0.024 per transaction will apply to any dial transactions.
- (g) The VeriFone Connect Service is a "Third Party Service."
- (h) Pricing is subject to change pursuant to Section 3 of the Agreement; however, any price change shall not apply to any Devices covered by an existing Term.

Device Return

Agency must request a Material Return Authorization from EGI in connection with any return of a Device to EGI under this Exhibit B-2.

Services:

(1) PAYware Connect with Data Encryption Services. PAYware Connect provides transaction routing to enable various transaction types, as well as online reporting. Data encryption services provide encryption of the sensitive credit/debit card track data elements from the Device to the PAYware Connect gateway, at which point the data elements are decrypted and sent to the applicable processor. For VX and MX devices, the VeriShield Protect Terminal Application must be installed in each Device in order to enable the encryption functionality.

Agency will have access to real-time transaction-based reports and terminal management (boarding/disabling) via the PAYware Connect gateway Client console. Agency can track its single or multi-location operations in a consolidated manner.

(2) VeriCentre Service. EGI will remotely manage terminal application software updates to the field on behalf of the Agency via its hosted VeriCentre service. Application updates will be automated during Agency off hours so no Agency action is required to acquire the download.

(3) Help Desk Services. EGI shall provide Agency with support services for the PAYware Connect Gateway. Agency may call the VeriFone Call Centre for Device issues. In such event, VeriFone shall provide Device troubleshooting for Device related problems or restore Device operation if possible and refer Agency to the BPP Services if necessary.

(4) Deployment Services. Prior to shipment, EGI shall perform the ERAD application download and ship the Devices to Agency. Any other additional deployment actions may be subject to additional fees.

(5) Buyer Protection Plan Services for Countertop Devices ("BPP Services")
During the Service Term, Agency may return a countertop device to EGI for repair. EGI shall use commercially reasonable efforts to complete the BPP Services and ship the serviced device back to Agency. EGI shall use only VeriFone-authorized parts on all VeriFone devices serviced. This BPP Service includes out of scope repairs required as a result of acts of nature, spillage and accidental breakage, subject to the limitation set forth below.

Specific BPP Services performed shall consist of the following, as applicable:

- a. Dating Devices in and out of repair process for tracking and reporting
- b. Troubleshooting and diagnostics of Devices to isolate problems
- c. Repairing/replacing defective components including boards and print head mechanisms due to normal wear and tear
- d. Cleaning internal components, cases, keys and accessories
- e. Replacing worn or scratched cases and keys
- f. Replacing scratched or tarnished lenses
- g. Installing applicable Engineering Change Orders
- h. Installing ribbon and paper in printers
- i. Accessories will be repaired or replaced if defective but will NOT be replaced if missing
- j. Testing of Devices (limited to power on and print test, if applicable)
- k. Repackaging in new boxes
- l. Maintaining repair history on all Devices serviced

Consumables: The BPP Services do not include consumable items such as paper, the Device stylus or the wireless Device battery.

Out of Scope Limit: Out of scope repairs are limited to twenty percent (20%) of all Devices returned for repair by Agency, on a quarterly basis. In the event Agency exceeds this limit in any quarterly period, EGI may assess a fee for Out of Scope service on all units in excess of the allowed twenty percent.

No Trouble Found Limit: No Trouble Finds are limited to ten percent (10%) of all Devices returned for repair by Agency, on a quarterly basis. In the event Agency exceeds this limit in any quarterly period, EGI may assess a fee for Clean and Test service on all units in excess of the allowed 10%.

(6) Repair Services for Mobile Handheld Wireless Devices (“Repair Services”)

EGI shall provide the following repair services for Devices that are VeriFone mobile handheld wireless devices: If it is determined that any Device is defective due to faulty workmanship or defective materials, or that any software component of such unit fails to substantially conform to the written documentation designated by VeriFone for use with such software component, then Agency may return such unit to EGI during the Service Term. Upon receipt of any such unit during the Service Term, EGI shall, at its expense, (1) in EGI’s sole discretion, repair or replace such unit, and (2) ship such unit to return it to its original location. EGI’s obligations hereunder shall arise only if EGI’s examination of the unit in question discloses to EGI’s satisfaction that the claimed defect or nonconformity actually exists and was not caused by any improper installation, testing or use, any misuse or neglect, any failure of electrical power, air conditioning or humidity control, or any act of God, accident, fire or other hazard.

(7) Priority Exchange Service

In the event that EGI’s Help Desk determines that a replacement is required for a failed unit of Device, EGI will initiate the shipment of such replacement device to Agency. Orders logged by the Help Desk **before** 5:00PM ET, Monday through Friday will be shipped the same day for next business day delivery. Orders logged by the Help Desk **at or after** 5:00PM ET, Monday through Friday, will be shipped the next business day, via standard overnight delivery. EGI-designated holidays are excluded. EGI will not be liable for any delays in order processing due to inaccurate or incomplete orders.

Prior to shipment, EGI shall perform the following services, as applicable, with respect to each unit:

1. Configure the Device - affix ERAD specific overlay, labels, and keypad covers, as applicable
2. Hardware testing - power up and test the Device
3. Download ERAD applications on the Device
4. Include ERAD instruction sheets with the replacement Device

Delivery of the replacement unit shall be via overnight courier, shipping and handling pre-paid. The Agency site shall be responsible for installing the replacement unit.

Supply items: Power Packs and cables are not to be returned with the non-functioning Device and should remain at the Agency site location. Power packs and cables are considered supply items.

Accessories: The stylus device must be returned with the non-functioning device as EGI will deploy a stylus with the functioning device.

For each failed unit of Device replaced by EGI hereunder, EGI shall arrange for retrieval of the defective Device. The Agency site shall be responsible for de-installing the failed unit, packing such unit in the shipping box sent with the replacement unit (pursuant to the instructions enclosed with the replacement unit), and including on the exterior of such box any Material Return Authorization (“MRA”) number enclosed with the replacement unit. EGI shall issue one call tag (dispatch a carrier) for each device. A call tag will include three carrier attempts to pick up the non-functioning device. If the second attempt is unsuccessful, EGI will contact the site to initiate retrieval. If by the third attempt the non-functioning device has still not been retrieved, EGI will contact the site and escalate for follow up. In the event Agency fails to return a failed Device within 45 days, EGI shall notify Agency of such non-recovered Device. In the event the failed unit is not recovered within 60 days after notification, and returned to EGI, EGI will invoice Agency at EGI’s list price for the Device, plus an administration fee of \$100.00. In the event the Device is recovered after invoicing takes place, this price will be credited back to Agency, minus the administration fee.

The repair of retrieved Device is covered under VeriFone’s BPP Services or Repair Services, as set forth above.

(8) VeriFone Connect GPRS Wireless Service

EGI shall provide Agency with its VeriFone Connect Services for the VX680 devices. All internet connectivity is the responsibility of Agency.

Specific terms related to the VeriFone Connect Services are set forth on VeriFone’s website at www.verifone.com/legal/vcra_cpt. In accordance with such pass-through provisions, Agency shall indemnify and hold harmless EGI, VeriFone and VeriFone’s third party service providers, and their officers, employees and affiliates, from and against any and all third party claims, irrespective of the nature of the claims, alleging loss, costs, expenses, damages or injuries (including injuries resulting in death) arising out of or in connection with any breach of such pass through provisions by Agency or a customer, or any claims for libel, slander, or any tangible property damage, personal injury or death, arising in any way, directly or indirectly, in connection with acts or omissions of Agency with respect thereto, or Agency’s use, failure to use, or inability to

use the VeriFone Connect Services, except where the claims result from the gross negligence or willful misconduct of any of the VeriFone or the service provider. Indemnities in this section shall survive the expiration or termination of the Agreement.

Agency shall not remove any SIM cards provided with a Device from such Device, without the express prior written consent of EGI or VeriFone.

EGI may interrupt the VeriFone Connect services at any time and for any period of time, without any liability on its part, if Agency fails to comply with any obligations under this Agreement, or where EGI reasonably deems it necessary to prevent the improper or unlawful use of the VeriFone Connect services.

Agency acknowledges that the VeriFone Connect services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance. VeriFone reserves the right, in its sole discretion, to make improvements to or correct any error or omissions in the VeriFone Connect services which may or may not affect access to the VeriFone Connect services.

WITH REGARD TO THE VERIFONE CONNECT SERVICES: (1) NEITHER EGI NOR VERIFONE SHALL BE LIABLE TO AGENCY FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: (I) FACILITIES, EQUIPMENT, SOFTWARE, APPLICATIONS, SERVICES OR CONTENT PROVIDED BY AGENCY OR THIRD PARTIES, (II) SERVICE INTERRUPTIONS, DEGRADATION, ERRORS, DELAYS OR DEFECTS OF TRANSMISSION, (III) UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION OR LOSS OR DESTRUCTION OF AGENCY OR THIRD PARTY'S APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORK OR SYSTEMS BY ANY MEANS, OR (IV) ANY ACT OR OMISSION OF AGENCY OR A THIRD PARTY; AND (2) NEITHER EGI NOR VERIFONE IS LIABLE FOR ANY DELAYS IN SERVICE IMPLEMENTATION OR DELIVERY.

NAVAJO COUNTY SHERIFF'S OFFICE

Signature

Kelly Clark, Sheriff