

APPENDIX D – ENTERPRISE SERVICES MASTER AGREEMENT (ESMA)

RFSQ # ITS-I10604-S



SAMPLE MASTER AGREEMENT

BY AND BETWEEN

COUNTY OF LOS ANGELES

INTERNAL SERVICES DEPARTMENT

AND

(CONTRACTOR)

FOR

ENTERPRISE INFORMATION TECHNOLOGY SERVICES

CREATED: JULY 2022

PREPARED BY: LOS ANGELES COUNTY INTERNAL SERVICES DEPARTMENT

PARAGRAPH/SECTION	PAGE
RECITALS.....	1
1.0 APPLICABLE DOCUMENTS	1
2.0 DEFINITIONS	2
3.0 WORK	7
4.0 WORK ORDER SOLICITATION PROCESS	8
5.0 WORK ORDER EVALUATION AND AWARD PROCESS	9
6.0 WORK ORDER APPROVAL AND EXECUTION	10
7.0 WORK ORDER ACCEPTANCE	10
8.0 WORK ORDER TERMINATION	11
9.0 WORK ORDER WARRANTY(IES)	11
9.1 Work Order Warranties:	11
9.2 Further Warranties:	11
9.3 Warranty Pass-Through:	12
9.4 Warranty Disclaimers:.....	12
10.0 TERM OF MASTER AGREEMENT	12
10.1 Initial Term:	12
10.2 Renewal Options:	13
10.3 Master Agreement Extension:	13
11.0 CONTRACT SUM.....	13
12.0 INVOICES AND PAYMENTS	14
13.0 COUNTY ADMINISTRATION OF MASTER AGREEMENT	16
13.1 County's Director, Internal Services Department (Director, ISD):.....	16
13.2 County's ESMA Administrator (ESMA Administrator):	16
13.3 County's Work Order Project Manager:	17
14.0 CONTRACTOR ADMINISTRATION OF MASTER AGREEMENT.....	17
14.1 Contractor's Project Director:	17
14.2 Contractor's Project Manager:.....	18
14.3 Contractor's Authorized Officials:.....	18
14.4 Approval of Contractor Personnel (Consultant(s)):	18
14.5 Contractor Personnel Identification:	19
14.6 Background and Security Investigations:.....	20

PARAGRAPH/SECTION	PAGE
14.7 Confidentiality and Security:.....	20
15.0 AMENDMENTS AND CHANGE NOTICES	22
15.1 Amendments to Master Agreement:.....	22
15.2 Change Notices to Master Agreement:	23
15.3 Work Order Amendments:	23
16.0 ASSIGNMENT AND DELEGATION/MERGERS OR ACQUISITIONS	23
17.0 NO THIRD PARTY BENEFICIARIES	24
18.0 AUTHORIZATION WARRANTY	24
19.0 PROPRIETARY CONSIDERATIONS	24
19.1 Pre-Existing Work:.....	24
19.2 Rights to Deliverables:	25
19.3 No Product Provided:.....	26
20.0 COMPLIANCE WITH APPLICABLE LAW	26
21.0 COMPLIANCE WITH CIVIL RIGHTS LAWS	26
22.0 COMPLIANCE WITH COUNTY PROCEDURES	27
23.0 CONFLICT OF INTEREST.....	27
24.0 CONTRACTOR RESPONSIBILITY AND DEBARMENT	27
24.1 Responsible Contractor:.....	27
24.2 Chapter 2.202 of the County Code:	27
24.3 Non-Responsible Contractor:.....	28
24.4 Contractor Hearing Board:.....	28
24.5 Subcontractors of Contractor:	29
25.0 CONTRACTOR’S WARRANTY OF COMPLIANCE WITH COUNTY’S DEFAULTED PROPERTY TAX REDUCTION PROGRAM	29
26.0 CONTRACTOR’S WARRANTY AGAINST CONTINGENT FEES.....	29
27.0 COUNTY’S QUALITY ASSURANCE PLAN	29
28.0 COUNTY FACILITY OFFICE SPACE.....	30
29.0 ACCESS TO COUNTY FACILITIES	30
30.0 PHYSICAL ALTERATIONS OF COUNTY FACILITIES.....	30
31.0 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS.....	30
32.0 EMPLOYMENT ELIGIBILITY VERIFICATION.....	31

PARAGRAPH/SECTION	PAGE
33.0 COUNTERPARTS AND ELECTRONIC SIGNATURES AND REPRESENTATIONS	31
34.0 FAIR LABOR STANDARDS.....	31
35.0 FORCE MAJEURE	31
36.0 CONTRACTOR PERFORMANCE DURING CIVIL UNREST AND DISASTER	32
37.0 GOVERNING LAW, JURISDICTION, AND VENUE	32
38.0 INDEPENDENT CONTRACTOR STATUS	32
39.0 INTELLECTUAL PROPERTY INDEMNIFICATION	33
40.0 CONTRACTOR ACTS AND/OR OMISSIONS INDEMNIFICATION	34
41.0 LIMITATION OF LIABILITY	35
42.0 GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE	35
42.1 Evidence of Coverage and Notice to County:	36
42.2 Additional Insured Status and Scope of Coverage:	36
42.3 Cancellation of or Changes in Insurance:	37
42.4 Failure to Maintain Insurance:	37
42.5 Insurer Financial Ratings:	37
42.6 Contractor's Insurance Must Be Primary:	37
42.7 Waivers of Subrogation:	37
42.8 Subcontractor Insurance Coverage Requirements:	37
42.9 Deductibles and Self-Insured Retentions (SIRs):	38
42.10 Claims Made Coverage:	38
42.11 Application of Excess Liability Coverage:	38
42.12 Separation of Insureds:	38
42.13 Alternative Risk Financing Programs:	38
42.14 County Review and Approval of Insurance Requirements:	38
43.0 INSURANCE COVERAGE	38
43.1 Commercial General Liability Insurance:	38
43.2 Automobile Liability Insurance:	39
43.3 Workers Compensation and Employers' Liability Insurance:	39
43.4 Technology Errors & Omissions Insurance:	39
43.5 Cyber Liability Insurance:	39
43.6 Property Coverage Insurance:	40

PARAGRAPH/SECTION	PAGE
43.7 Professional Liability/Errors and Omissions:	40
44.0 LIQUIDATED DAMAGES.....	40
45.0 NONDISCRIMINATION AND AFFIRMATIVE ACTION	41
46.0 NON EXCLUSIVITY	42
47.0 NOTICE OF DELAYS.....	42
48.0 DISPUTE RESOLUTION PROCEDURE	42
49.0 NOTICES.....	43
50.0 PROHIBITION AGAINST INDUCEMENT OR PERSUASION.....	44
51.0 PUBLIC RECORDS ACT	44
52.0 PUBLICITY	44
53.0 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT	45
54.0 RECYCLED BOND PAPER	45
55.0 SUBCONTRACTING	46
56.0 TERMINATION OF MASTER AGREEMENT.....	46
56.1 Termination for Breach of Warranty to Maintain Compliance with County's Child Support Compliance Program:	46
56.2 Termination for Convenience:.....	47
56.3 Termination for Default:	47
56.4 Termination for Improper Consideration:	49
56.5 Termination for Insolvency:	49
56.6 Termination for Non-Adherence of County Lobbyist Ordinance:.....	49
56.7 Termination for Non-Appropriation of Funds:.....	49
56.8 Termination for Breach of Warranty to Maintain Compliance with County's Defaulted Property Tax Reduction Program:.....	50
56.9 Effect of Termination:	50
57.0 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA").....	50
57.1 Protected Health Information (PHI):.....	50
57.2 Personally Identifiable Information (PII):.....	51
58.0 COMPLIANCE WITH COUNTY'S JURY SERVICE PROGRAM.....	51
58.1 Jury Service Program:.....	51
58.2 Written Employee Jury Service Policy:.....	51

PARAGRAPH/SECTION	PAGE
59.0 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF OR ARE ON A COUNTY RE-EMPLOYMENT LIST.....	52
60.0 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS	52
61.0 LOCAL SMALL BUSINESS ENTERPRISE (LSBE) PREFERENCE PROGRAM	53
62.0 DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PREFERENCE PROGRAM	53
63.0 SOCIAL ENTERPRISE (SE) PREFERENCE PROGRAM	54
64.0 TIME OFF FOR VOTING	55
65.0 LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS AND CERTIFICATES	55
66.0 USE OF FEDERAL FUNDS	55
67.0 FEDERAL ACCESS TO RECORDS	55
68.0 DATA DESTRUCTION	56
69.0 INFORMATION SECURITY.....	56
69.1 System Security:.....	56
69.2 Data Security:.....	56
69.3 Security Incident:	57
69.4 Disabling Device Remedies:	57
69.5 Data Encryption Requirements:.....	57
70.0 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT.....	58
71.0 CONTRACTOR’S WARRANTY OF ADHERENCE TO COUNTY’S CHILD SUPPORT COMPLIANCE PROGRAM.....	58
72.0 CONTRACTOR’S ACKNOWLEDGEMENT OF COUNTY’S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW.....	59
73.0 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW	59
74.0 CAPTIONS AND PARAGRAPH HEADINGS.....	59
75.0 VALIDITY AND SEVERABILITY	59
75.1 Validity:	59
75.2 Severability:.....	59
75.3 Waiver:	59
76.0 SURVIVAL	60
77.0 COMPLIANCE WITH COUNTY’S ZERO TOLERANCE POLICY ON HUMAN TRAFFICKING	60
78.0 COMPLIANCE WITH FAIR CHANCE EMPLOYMENT PRACTICES	60
79.0 COMPLIANCE WITH THE COUNTY POLICY OF EQUITY	60

PARAGRAPH/SECTION	PAGE
80.0 PROHIBITION FROM PARTICIPATION IN FUTURE SOLICITATION(S)	61
81.0 INJURY AND ILLNESS PREVENTION PROGRAM (IIPP)	61
82.0 COVID-19 VACCINATIONS OF COUNTY CONTRACTOR PERSONNEL	61
83.0 PREFERENCE PROGRAM ENTITY (PPE) UTILIZATION REPORT	62
AUTHORIZATION OF THE ESMA.....	Signatures – Page 63
ESMA EXHIBITS	Exhibits – Page 1

**SAMPLE MASTER AGREEMENT
BETWEEN
COUNTY OF LOS ANGELES AND
(CONTRACTOR)
FOR
ENTERPRISE INFORMATION TECHNOLOGY SERVICES**

This Master Agreement is made and entered into this ____ day of _____, 20____ by and between the County of Los Angeles hereinafter referred to as County and _____, hereinafter referred to as Contractor, to provide enterprise information technology services, as more fully described herein (Enterprise Information Technology Services).

RECITALS

WHEREAS, the County may contract with private businesses for Enterprise Information Technology Services when certain requirements are met; and

WHEREAS, the Contractor is a private firm specializing in providing Enterprise Information Technology Services; and

WHEREAS, this Master Agreement is therefore authorized under California Codes, Government Code Section 31000 which authorizes the Board of Supervisors to contract for special services; and

WHEREAS, on _____, the Board of Supervisors has authorized the Director of Internal Services Department or designee to execute and administer this Master Agreement; and

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties agree to the following:

1.0 APPLICABLE DOCUMENTS

The body of this Master Agreement, together with (a) Exhibits A, B, C, D, E, F, G and H attached hereto and incorporated herein by reference, (b) all Attachments attached to such Exhibits, (c) all executed Work Orders issued hereunder, and (d) all Amendments and Work Order Amendments, collectively constitute and throughout and hereinafter are referred to as the "Agreement." In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the body of this Agreement and the Exhibits, or between Exhibits, such conflict or inconsistency will be resolved by giving precedence first to the Agreement and then to the Exhibits according to the following priority:

ESMA EXHIBITS:

[EXHIBIT A:](#) ESMA Service Categories

[EXHIBIT B:](#) Sample Work Order (Fixed Price Per Deliverable (FP/D) and (Time and Materials Per Deliverable (T&M/D)) and Attachments:

- [Attachment B1](#): Sample Statement of Work
- [Attachment B2](#): Certification of Employee Status
- [Attachment B3](#): Certification of No Conflict of Interest
- [Attachment B4](#): COVID-19 Vaccination Certification of Compliance
- [Attachment B5](#): Contractor Acknowledgement, Confidentiality and Copyright Assignment

[EXHIBIT C](#): County's Administration of Master Agreement

[EXHIBIT D](#): Contractor's Administration

[EXHIBIT E](#): Safely Surrendered Baby Law

[EXHIBIT F](#): ESMA Risk Schedule

[EXHIBIT G](#): Business Associate Agreement Under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (*"ESMA HIPAA Business Associate Agreement"*)

[EXHIBIT H](#): Evaluation Process for Certain Work Order Solicitations

Notwithstanding the foregoing order of precedence and solely with respect to the Services described under a fully executed Work Order, such Work Order will take precedence solely with respect to obligations designated as subject to change via Work Order (e.g., Warranty Period) in this Agreement. This Agreement constitutes the complete and exclusive statement of understanding between the parties, and supersedes all previous agreements, written and oral, and all communications between the parties relating to the subject matter of this Agreement. No change to this Agreement will be valid unless prepared pursuant to Paragraph 15.0 ([Amendments and Change Notices](#)) and signed by both parties.

2.0 DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein will be construed to have the following meaning, unless otherwise apparent from the context in which they are used.

- 2.1 **Acceptance; Accept(ed)**: The terms "Acceptance" and "Accepted" will mean County's written approval, by way of an Acceptance Certificate, of the Fixed Price Per Deliverable (FP/D) or Time and Materials Per Deliverable (T&M/D) Services provided by Contractor under this Agreement where the applicable Work Order Statement of Work Acceptance Criteria has been successfully met.
- 2.2 **Acceptance Certificate**: The term "Acceptance Certificate" will mean, and refer to, the document executed by the County as referenced in Paragraph 5.0 ([Work Order Evaluation and Award Process](#)) signifying Contractor's successful completion of the applicable FP/D or T&M/D tasks, subtasks, milestones, deliverables, Services and other work in accordance with the requirements and timetables as set forth in the executed Work Order Statement of Work, including the Acceptance Criteria, as amended by any fully executed Work Order Amendment(s) thereto.
- 2.3 **Acceptance Criteria**: The term "Acceptance Criteria" will mean agreed upon objective standards by which the parties will verify that the Services and/or Deliverables meet or exceed the requirements for Initial Acceptance and Final Acceptance under the applicable Work Order

Statement of Work, as amended by any fully executed Work Order Amendment(s) thereto, as specified in Paragraph 5.0 ([Work Order Evaluation and Award Process](#)).

- 2.4 **Acceptance Date:** The term "Acceptance Date" will mean the date on which County issues a written Acceptance Certificate as provided in the applicable FP/D or T&M/D Work Order.
- 2.5 **Amendment:** The term "Amendment" will mean an amendment duly executed by the ESMA Administrator (or the County's Board of Supervisors if deemed appropriate by the County) and Contractor's authorized representative and effecting a change which materially affects the term of the Agreement, including extending the Agreement beyond the Initial Term, or any term or condition included in this Agreement.
- 2.6 **Business Associate:** The term "Business Associate" will have the meaning as set forth in Exhibit G ([ESMA HIPAA Business Associate Agreement](#)).
- 2.7 **Business Day(s):** The term "Business Day(s)", whether singular or plural, will mean any day(s) of eight (8) working hours during a single day from 8:00 a.m. to 5:00 p.m. Pacific Time (PT), Monday through Friday, excluding County observed holidays.
- 2.8 **Category(ies), Service Category(ies), ESMA Service Category(ies):** The areas of technical specialization and the associated skills and experience as set forth in Exhibit A ([ESMA Service Categories](#)) which comprise the Services that the County will be soliciting from Qualified Contractors during the term of the Agreement. A Subcategory(ies) means a subset of technical specialization and the associated skills and experience associated with the applicable Category(ies). Any use of Category(ies) herein will be interpreted to also include Subcategory(ies), collectively or singularly, as determined by the context of such use.
- 2.9 **Change Notice:** The term "Change Notice" shall mean a change notice duly executed by the Contractor's authorized representative and the ESMA Administrator, and effecting a change to the Master Agreement that does not materially affect the term of the Master Agreement or any term or condition included in the Master Agreement.
- 2.10 **Code Developments:** The term "Code Developments" will mean any computer code or materials (other than Products or Pre-existing Work) developed by Contractor (alone or in collaboration with County) and provided to County in the course of performance of this Agreement under a fully executed FP/D or T&M/D Work Order. Code Developments do not include Contractor's generally available software which is made available to the County under a separate agreement.
- 2.11 **Contractor:** Identifies a Qualified Contractor who is in compliance with the terms and conditions and whose evidence of insurance requirements have all been received by ISD and are valid and in effect at the time of a given Work Order award. A Qualified Contractor will become inactive if the insurance has lapsed or another mandatory requirement(s) have not been satisfied. The term "Contractor" may also be used to refer to a Qualified Contractor who has prevailed on an ESMA Work Order Solicitation and is actively involved in providing Services, either directly or indirectly, under an active, duly executed ESMA Work Order.
- 2.12 **Contractor Personnel (Consultant(s)):** The individual(s) performing work on Work Order(s) on behalf of and under the exclusive control of the Contractor and includes Contractor's employees assigned to perform work on Work Order(s). As used herein, the terms Contractor Personnel and Consultant may be used interchangeably throughout this document.

- 2.13 **Contractor Project Director**: The individual designated by the Contractor whose responsibilities are set forth in Section 14.1 ([Contractor's Project Director](#)). Refer to Exhibit D ([Contractor's Administration](#)), for designated Contractor Project Director).
- 2.14 **Contractor Project Manager**: The individual designated by the Contractor whose responsibilities are set forth in Section 14.2 ([Contractor's Project Manager](#)). Refer to Exhibit D (Contractor's Administration), for designated Contractor Project Manager(s).
- 2.15 **County**: The term "County" will mean the County of Los Angeles, California.
- 2.16 **County's ESMA Administrator (ESMA Administrator)**: The individual designated by the Director, ISD whose authority and responsibilities are set forth in Section 13.2 ([County's ESMA Administrator](#)). Refer to Exhibit C ([County's Administration of Master Agreement](#)) for the designated County's ESMA Administrator.
- 2.17 **County IP**: Any Deliverables developed by Contractor for County and so designated in a Work Order.
- 2.18 **County's Work Order Project Manager**: The individual designated as chief contact person whose responsibilities are set forth in Section 13.3 ([County's Work Order Project Manager](#)). The County's Work Order Project Manager (PM) will be specified in each Work Order.
- 2.19 **Covered Entity**: The term "Covered Entity" will have the meaning as set forth in Exhibit G ([ESMA HIPAA Business Associate Agreement](#)).
- 2.20 **Day(s)**: The term "day(s)", whether singular or plural, capitalized or otherwise, will mean calendar day(s) unless otherwise specified.
- 2.21 **Deficiency(ies)**: The term "Deficiency(ies)", whether singular or plural, will mean and include material defect(s) in any of the work relating to design, development, materials and/or workmanship; error(s); material deviation(s) from the Documentation, other published and/or mutually agreed upon standards or any of the requirements or specifications as set forth in this Agreement or in any Work Order issued hereunder; or any substantial nonconformance with related documentation or functional requirements which result in the Deliverables not meeting the Acceptance Criteria, if any, established in the applicable FP/D or T&M/D Work Order Statement of Work.
- 2.22 **Deliverable(s)**: The term "Deliverable(s)", whether singular or plural, will mean (i) any literary works or other material or works of authorship that Contractor may deliver to County in providing Services under this Agreement under a fully executed FP/D or T&M/D Work Order, as amended by any fully executed Work Order Amendment(s) thereto; and (ii) Developed Work. Deliverable(s) do not include commercially available software, which may be provided under other agreements. All Deliverables will be designated as County IP or Joint IP in each Work Order.
- 2.23 **Department(s)**: The term "Department(s)", whether singular or plural, will mean any one of the County's department(s) acquiring Services under this Agreement under a fully executed FP/D or T&M/D Work Order, as amended by any fully executed Work Order Amendment(s) thereto. For purposes of this Agreement, "Department" will also include any governmental entity for which the County's Board of Supervisors is the governing board.

- 2.24 **Developed Work:** The term "Developed Work" will mean Code Developments, plans, interfaces, charts, programs, program listings, documentation, documents, interfaces and reports (other than Products and Pre-Existing Work) which are originated or created through Contractor's provision of Services pursuant to this Agreement.
- 2.25 **Director, Internal Services Department:** The term "Director, ISD" will mean the Director of the County's Internal Services Department and the term "ISD" will mean the Los Angeles County Internal Services Department.
- 2.26 **Dispute Resolution Procedure:** The term "Dispute Resolution Procedure" will mean the procedure for resolution of the disputes arising under this Agreement described in Paragraph 48.0 ([Dispute Resolution Procedure](#)).
- 2.27 **Documentation:** The term "Documentation" will mean any and all written and electronic publications relating to the Services, such as reference, user, installation, systems administrator and technical guides, delivered, or otherwise made available, by Contractor to County as part of its Services.
- 2.28 **Effective Date:** The term "Effective Date" will mean the date of execution of this Agreement by authorized representative of Contractor and approval of this Agreement by County's Board of Supervisors.
- 2.29 **Extended Term(s):** The term "Extended Term(s)", whether singular or plural, will have the meaning as set forth in Paragraph 10.0 ([Term of Master Agreement](#)).
- 2.30 **Final Acceptance:** The term "Final Acceptance" will have the meaning as set forth in Paragraph 7.0 ([Work Order Acceptance](#)) and/or the applicable FP/D or T&M/D Work Order.
- 2.31 **Fiscal Year:** The twelve (12) months-period beginning July 1st and ending the following June 30th.
- 2.32 **Fixed Price (FP/D):** A defined service, or set of services, performed by Contractor in response to a defined task, or set of tasks, at a specified fixed price, and delivered per a specific schedule.
- 2.33 **HIPAA:** The term "HIPAA" will mean Health Insurance Portability and Accountability Act of 1996, together with all rules and regulations from time to time promulgated thereunder, as further defined in Exhibit G ([ESMA HIPAA Business Associate Agreement](#)).
- 2.34 **HIPAA-Related Work Order:** The term "HIPAA-Related Work Order" will mean a Work Order that may be subject to the requirements of HIPAA, and is denoted by County's designation in Attachment B1 ([Sample Statement of Work](#)) as set forth in Exhibit B ([Sample Work Order](#)).
- 2.35 **Initial Acceptance:** The term "Initial Acceptance" will have the meaning as set forth in Paragraph 7.0 (Work Order Acceptance) and/or the applicable FP/D or T&M/D Work Order.
- 2.36 **Initial Term:** As used herein, the term "Initial Term" will have the meaning as set forth in Paragraph 10.0 (Term of Master Agreement).
- 2.37 **Invoice Withhold:** County may withhold up to twenty percent (20%) of a Deliverable invoice as identified in the applicable Work Order and the total amount withheld from all Deliverable invoices will be paid upon County's Final Acceptance of the applicable Deliverable.
- 2.38 **Joint IP:** Any Deliverables developed by Contractor in collaboration with County and so designated in a Work Order.

- 2.39 **Master Agreement (Agreement)**: A County agreement executed between County and individual Contractors. The Agreement includes those documents described in Paragraph 1.0 ([Applicable Documents](#)) and sets forth the terms and conditions for the issuance and performance of, and otherwise governs, subsequent Work Orders.
- 2.40 **Pre-existing Work**: The term "Pre-existing Work" will mean all intellectual property rights to and ownership rights of any computer codes, information, processes, procedures, and other materials (other than Products and Deliverables) developed or otherwise obtained by or for Contractor or Contractor's affiliates, or County, independently of this Agreement. Contractor must identify its Pre-Existing Work, if any, in the applicable Work Order. If Contractor provides County with Pre-Existing Work, but inadvertently does not identify such Pre-Existing Work in the Work Order, such Pre-Existing Work will remain the property of Contractor if Contractor is able to demonstrate such Pre-Existing Work existed prior to the effective date of the applicable Work Order.
- 2.41 **Product(s)**: The term "Product(s)", whether singular or plural, will mean any materials comprising commercially-released, pre-release or beta products (whether licensed for a fee or no charge) that Contractor makes available to County for license under a separate license agreement applicable to that Product as published by Contractor, its affiliates, or a third party, or pursuant to another duly executed agreement between the County and Contractor. To the extent Contractor enhances and/or modifies Contractor's licensed Product(s) during the performance of its Services and such enhancements or modifications are integrated into Contractor's licensed Product(s), Contractor may be designated the sole owner of all right, title and interest, to such enhancements or modifications and County will have a non-exclusive, perpetual, royalty-free, irrevocable, worldwide, and enterprise-wide license to use, reproduce, alter, adapt and modify such enhancements and/or modifications for its business purposes. Where the Services include enhancements and/or modifications of the Contractor's licensed Product(s) such that Contractor intends to make a claim of ownership in accordance with the foregoing, the applicable Work Order will so state and such claim of ownership will be subject to agreement by the County in the applicable Work Order.
- 2.42 **Qualified Contractor**: A Contractor who has submitted a Statement of Qualifications in response to County's Request for Statement of Qualifications; has met the Minimum Qualifications for one or more of the ESMA Service Categories as set forth in Exhibit A ([ESMA Service Categories](#)); and has executed this Agreement with County.
- 2.43 **Request For Statement of Qualifications (RFSQ)**: An open and continuous solicitation for Enterprise Information Technology Contractors.
- 2.44 **Service(s)**: The term "Service(s)", whether singular or plural, will mean the services rendered by Contractor in accordance with this Agreement, which Services will be described under a fully executed Work Order, as amended by any fully executed Work Order Amendment(s) thereto.
- 2.45 **State**: The State of California.
- 2.46 **Statement of Qualifications (SOQ)**: A Vendor's written description and proof of requisite experience that qualifies the Vendor to provide Services in any of the ESMA Categories.
- 2.47 **Statement of Work (SOW)**: A written description of duties and/or tasks and deliverables desired by the County under a specific Work Order as amended by any fully executed Work

Order Amendment(s) thereto. Statements of services will be incorporated into each Work Order to be performed by the Contractor awarded the Work Order.

- 2.48 **Time and Materials (T&M)**: The defined service or set of services performed by Contractor in response to a defined task, or set of tasks on the basis of direct labor hours at the specified fixed and blended hourly rate as set forth in each Work Order, that include wages, overhead, general and administrative expenses, travel and incidental expenses, and profit, and delivered per a specific schedule.
- 2.49 **Total Maximum Amount**: The maximum monetary amount specified as payable to Contractor on a Work Order.
- 2.50 **Vendor's Overall Qualifications**: All Minimum Qualifications specified in the RFSQ, this Agreement and each applicable Work Order Solicitation issued hereunder.
- 2.51 **Warranty Period**: The term "Warranty Period" will have the meaning as set forth in Paragraph 9.0 ([Work Order Warranty\(ies\)](#)) and the applicable Work Order.
- 2.52 **Work Order Amendment**: The term "Work Order Amendment(s)" will mean a work order amendment duly authorized under the terms of this Agreement against an open Work Order in accordance with Section 15.3 ([Work Order Amendments](#)) with all applicable forms and attachments thereto.
- 2.53 **Work Order (WO)**: WO, used interchangeably with executed WO, is a subordinate agreement executed wholly within and subject to the provisions of this Agreement, for the performance of tasks and/or provision of deliverables as described in a specification or a SOW. Each WO must result from bids solicited by way of a Work Order Solicitation and tendered to County, by Qualified Contractors. Unless otherwise specified in the Work Order Solicitation, the County will select the most qualified bid responding to the requirements of the proposed WO based on the evaluation criteria set forth herein and in each Work Order Solicitation. No work will be performed by Contractors except in accordance with validly bid and executed WOs.
- 2.54 **Work Order Solicitation (WOS)**: Competitive solicitation, structured on a Fixed Price Per Deliverable (FP/D) and/or Time & Materials Per Deliverable (T&M/D) basis, containing the SOW, evaluation and selection criteria, and any other relevant information necessary for Qualified Contractors to bid on a WO. The WOS will be sent to the Qualified Contractors in the respective ESMA Service Categories as set forth in Exhibit A ([ESMA Service Categories](#)). The WOS may result in the award of a WO for the services identified in the WOS.

3.0 WORK

- 3.1 Pursuant to the provisions of this Agreement, the Contractor must fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth herein.
- 3.2 WOs will generally conform to Exhibit B ([Sample Work Order](#)). Each WO will include an attached SOW, which will describe in detail the particular project and the work required for the performance thereof. If Contractor provides any task, deliverable, service, or other work to County that utilizes other than approved Consultant(s), and/or that goes beyond the WO expiration date, and/or that exceeds the Total Maximum Amount as specified in the WO as originally written or as amended by any fully executed WO Amendment(s) thereto, these will be gratuitous efforts on the part of Contractor for which Contractor will have no claim whatsoever against County.

- 3.3 The Services are competitively bid among Qualified Contractors in specific ESMA Service Categories as set forth in Exhibit A (ESMA Service Categories) on a project-by-project basis. The Agreement is for work performed for a project basis and not for staff augmentation and is not a vehicle to procure Products, materials and/or goods of any kind.
- 3.4 County may solicit bids or proposals for work encompassed within one or more of the ESMA Service Categories as set forth in Exhibit A ([ESMA Service Categories](#)). The County will issue WOSs and award WOs in accordance with this Paragraph 3.0. In response to such WOSs, Qualified Contractors must bid or propose qualified personnel to satisfy the County's stated requirements. For WO(s) awarded to Contractor under this Agreement, Contractor must fully perform, complete and deliver on time, all tasks, deliverables, services and other work, pursuant to the provisions of this Agreement and in accordance with subsequent WO(s), as set forth herein.
- 3.5 No Qualified Contractor may submit a bid or proposal for any WOS for which it wrote, prepared or otherwise assisted the County in preparing such WOS.

4.0 WORK ORDER SOLICITATION PROCESS

- 4.1 County will issue a WOS, via any electronic means, to all Qualified Contractors within the respective Service Category(s).
- 4.2 The WOS will be either on a FP/D and/or T&M/D basis and will contain a SOW describing in detail the particular County project and the work that the selected Qualified Contractor will be required to perform.
- 4.3 For any WOS, interested Qualified Contractors within the respective Service Category(s) must:
1. Propose an individual candidate or a team of qualified candidates, whichever is specified in the WOS, for FP/D or T&M/D WOSs. If the WOS requests a team of qualified Consultants, Contractor will only be allowed to propose one (1) complete team of Consultants and/or Subcontractor(s) pursuant to the WOS and the SOW, unless otherwise stated.
 2. Submit a resume on Qualified Contractor's letterhead for the proposed individual or for each proposed team member; ensure name(s) on the resume(s) is(are) candidates' legal name as it appears on their social security card or any other government issued ID.
 3. For FP/D WOSs, submit the FP/D quotation as required in the WOS and the SOW.
 4. For T&M/D WOSs, submit the hourly rate(s) for each proposed candidate or a blended hourly rate for the team of candidates, together with a good faith or not-to-exceed estimate of hours to complete the work, as required in the WOSs and the SOW.
 5. Submit any other requested information as set forth in the WOS and the SOW.
 6. Submit the required documentation, (collectively, the bid or proposal), to the County by the bid submission deadline, to the address, and in the delivery manner (e.g., electronic, etc.) as set forth in the WOS.
 7. Failure to submit the bid or proposal by the bid submission deadline to the appropriate destination as set forth in the WOS may immediately disqualify Contractor from further consideration for that particular WO.

- 4.4 The submission of, and responses to, questions may be allowed as specified in the WOS.
- 4.5 All candidates proposed by Contractor are subject to both a reference check and a background and security investigation by the County pursuant to Section 14.6 ([Background and Security Investigations](#)).

5.0 WORK ORDER EVALUATION AND AWARD PROCESS

- 5.1 The evaluation methodology for every WOS may consist of five (5) or more components, each weighed and considered as set forth in the applicable WOS:
 - a. Cost;
 - b. Quality/Responsiveness of Proposal;
 - c. Preference Program Entity (PPE) Utilization Plan;
 - d. Candidate(s) Qualifications and Reference(s); and
 - e. Candidate(s) Interview(s)/Product Demonstration(s).

Every WOS evaluated on factors other than cost will require proposers to submit a Preference Program Entity (PPE) Utilization Plan. PPEs are Vendors certified in one or more of the County's Preference Programs: Local Small Business Enterprise (LSBE) Preference Program (Section 61.0), Disabled Veteran Business Enterprise (DVBE) Preference Program (Section 62.0), or Social Enterprise (SE) Preference Program. The PPE Utilization Plan will be worth a minimum of 15% (1,500 points) of the overall evaluation score. A list of PPE Certified Vendors can be found at: <https://camisvr.co.la.ca.us/LACoBids/CertList/VendorCert>.

There may also be additional evaluation components specified in each WOS. Using this process, the County will select the proposal that the County deems to be in the overall best interest of the County.

- 5.2 If required under the WOS, Contractors and/or the Consultant(s) proposed by the Contractor, must be available for an interview/demonstrations for the County within three (3) business days after notification to Contractor of the County's intent to interview. Failure to be available for an interview within this time frame may disqualify Contractor from further consideration for the subject WO.
- 5.3 Upon the completion of interviews, demonstrations and overall evaluations, the County will notify all Qualified Contractors who responded to the WOS of the County's intent to execute the WO with the highest overall rated Qualified Contractor. The prevailing Qualified Contractor will be required to verify the availability of the Consultant(s) proposed in the applicable WOS. Where any individual candidate(s) is no longer available, the prevailing Qualified Contractor may replace such individual candidate(s) with Consultant(s) with equal or greater skill and background. Such replacement candidate(s) will be subject to all the requirements of this Agreement and the applicable WOS, including, but not limited to, a reference check and a background and security investigation pursuant to Section 14.6 (Background and Security Investigations).
- 5.4 Any WOS where the evaluation considers factors other than cost will be subject to Exhibit H ([Evaluation Process for Certain Work Order Solicitations](#)).

- 5.5 Consultant(s) selected for a WO must be available to meet with the County and/or commence work on the starting date specified in the WO. Inability of Contractor to comply with such commencement date may be cause for replacement of Consultant from the particular WO as determined in the sole discretion of the ESMA Administrator. In the event Contractor fails to meet the requirements set forth in this Section 5.5, for three (3) incidents within a given County Fiscal Year, County may terminate this Agreement pursuant to Section 56.3 ([Termination for Default](#)).
- 5.6 The County reserves the right, in its sole discretion, to cancel a WOS at any point in the solicitation process. At no time will Qualified Contractor be reimbursed for any cost associated with its participation in a canceled WOS.
- 5.7 Contractor acknowledges and agrees that County's competitive bidding procedure may have the effect that no WOs are awarded to some Qualified Contractors under this Agreement.
- 5.8 ESMA Administrator will prepare the ESMA WO for execution, which will include the SOW, required forms and, when applicable, Exhibit G ([ESMA HIPAA Business Associate Agreement](#)).
- 5.9 ESMA Administrator will forward the WO packet to the prevailing Qualified Contractor who must obtain all necessary and required signatures and other applicable attachments, and return same to the ESMA Administrator.
- 5.10 No work will commence under the WO until the ESMA Administrator has formally executed and issued the ESMA WO.

6.0 WORK ORDER APPROVAL AND EXECUTION

All WOs issued under this Agreement will be approved and executed as follows:

1. For WOs in an amount up to Five Hundred Thousand Dollars (\$500,000), the WO will be approved and executed by County's ESMA Administrator.
2. For WOs in an amount exceeding Five Hundred Thousand Dollars (\$500,000), County's WO PM will provide written notice of such WO to County's Board of Supervisors. If County's ESMA Administrator, or designee, is informed by the County's WO PM that no response or objection to such written notice has been received from County's Board of Supervisors within ten (10) business days from the date of providing such written notice, the WO will be approved and executed by County's ESMA Administrator.

Following approval and execution, the WO will be issued to Contractor by County's ESMA Administrator in accordance with the procedures as set forth in Paragraph 5.0 ([Work Order Evaluation and Award Process](#)).

7.0 WORK ORDER ACCEPTANCE

- 7.1 WO Acceptance Criteria will be as specifically set forth in the WO. County WO PM will issue an Acceptance Certificate with respect to any Deliverable or Service performed by Qualified Contractor in accordance with the WO Acceptance Criteria.
- 7.2 To the extent applicable, each WO will define what is meant by Initial Acceptance, Final Acceptance, Acceptance Criteria and the Warranty Period with respect to any Deliverable or Service performed by Contractor under WOs.

8.0 WORK ORDER TERMINATION

Notwithstanding anything to the contrary, all disputes with respect to either party's failure to perform or to fulfill its responsibilities under any WO are subject to Paragraph 48.0 ([Dispute Resolution Procedure](#)). In the event the parties following the Dispute Resolution Procedure fail to reach an agreement with respect to a WO and subject to each party's rights under Paragraph 48.0, at County's sole discretion, such WO may be terminated in part or whole by County for convenience. After such WO termination, Contractor must:

1. Stop work under this Agreement on the agreed upon termination date;
2. Deliver to County all completed work and work in progress;
3. Complete performance of such part of the work as will not have been terminated; and
4. Not invoice County for Services and/or Deliverables before such Services and/or Deliverables are provided, as Contractor will not be entitled to any prepayment under this Agreement and where such termination is not for any default or breach by Contractor, County will pay to Contractor all sums due and payable to Contractor for Services properly performed through the effective date of such termination.

9.0 WORK ORDER WARRANTY(IES)

9.1 Work Order Warranties:

1. For the purposes of this Paragraph 9.0 and the Agreement and as defined in a WO, the "Warranty Period" for any Deliverables provided and Services performed by Contractor pursuant to a WO will have the meaning as set forth in the applicable WO, including the SOW. If no Warranty Period is specified in the WO, the Warranty Period will be thirty (30) days from Final Acceptance of the Services and/or Deliverables. Contractor represents and warrants that during the Warranty Period all Services and Deliverables under this Agreement will be without Deficiencies, and in accordance with the terms and conditions hereunder and applicable Acceptance Criteria as set forth in the WO.
2. County must notify Contractor of any warranty Deficiencies within the Warranty Period. Contractor must promptly correct any and all Deficiencies with the Deliverables and Services occurring during the Warranty Period in accordance with this Paragraph 9.0. The correction of all such Deficiencies will be at no cost to the County.
3. In the event that Contractor is unable to cure any Deficiency within thirty (30) days from the date on which County notifies Contractor of, or Contractor otherwise learns of, such Deficiency, Contractor must, at County's option, refund to County all fees paid by County for the Deliverables and/or Services County deems to be unusable.
4. In the event County reasonably finds that the Services do not meet the WO specifications as set forth in the applicable WO for such Services, County will inform Contractor in writing how the Services are non-conforming. Such corrective action may include re-performance of the non-conforming Services at no additional charge.

9.2 Further Warranties:

1. Contractor further represents, warrants, covenants and agrees that during the term of this Agreement:

- a. Contractor must comply with the applicable specifications, requirements, standards, and representations as set forth in the Agreement; and
 - b. Contractor warrants that the Services will be performed using reasonable care and skill and in a professional, timely and workmanlike manner and otherwise in accordance with this Agreement and consistent with industry standard practices.
2. In performance of its Services under this Agreement, Contractor will not intentionally cause any unplanned interruption of the operations of, or accessibility to, any of County's systems through any device, method or means including, without limitation, the use of any "virus," "lockup," "time bomb," "key lock," "worm," or "Trojan Horse" device or program, or disabling code, which has the potential or capability of compromising the security of County's confidential or proprietary information or of causing any unplanned interruption of the operations of, or accessibility of, County's systems by County or users or which could alter, destroy, or inhibit the use of County's systems, or the data contained therein (collectively referred to as a "Disabling Device") which could block access to or prevent the use of County's systems by County or users. Contractor agrees that it has not intentionally placed, nor is it aware of, any Disabling Device intentionally placed by Contractor on County's systems in performance of its Services under this Agreement, nor will Contractor knowingly permit any subsequent Services under this Agreement to cause placement of any Disabling Device on County's systems.
3. To the best of Contractor's knowledge, the Services and the Deliverables will not contain defamatory or indecent matter, and County's permitted use of the Services and Deliverables will not infringe the intellectual property rights of any third party.

9.3 Warranty Pass-Through:

Contractor must pass through to County to the fullest extent authorized, any applicable warranty or indemnity offered by any manufacturer of any third party software product that forms a part of the Services and which are provided by Contractor under this Agreement.

9.4 Warranty Disclaimers:

Except for the express warranties and representations provided in this Agreement, any WO executed hereunder and any underlying product purchase agreements and/or purchase orders, to the maximum extent permitted by applicable law, Contractor disclaims and excludes all representations, warranties, and conditions whether express, implied or statutory including, but not limited to, representations, warranties, or conditions of title, non-infringement, satisfactory condition, merchantability and fitness for a particular purpose, with respect to any services, deliverables or any other materials or information provided hereunder.

10.0 TERM OF MASTER AGREEMENT

10.1 Initial Term:

This Agreement will go into effect upon the effective date following execution by the Director of the ISD or his or her designee, as authorized by the Board of Supervisors, and will expire on _____, unless sooner terminated, in whole or in part, as provided herein.

10.2 Renewal Options:

The County will have the sole option to extend the Agreement for up to two (2) additional two-year terms (each an extended term) and six (6) one-month terms for a total additional renew option of four (4) years and six (6) months. Each such option and extension will be exercised at the sole discretion of the Director, ISD or his or her designee, as authorized by the Board of Supervisors.

10.3 Master Agreement Extension:

Notwithstanding any other provision of this Paragraph 10.0, a WO executed prior to the expiration date of this Agreement may be executed with an expiration date up to one hundred eighty days (180) days past the expiration date of this Agreement in order to complete a critical project that may be in progress at the end of the Agreement term without interruption. Any such WO will automatically extend this Agreement's expiration date up to the WO expiration date. Such extended Agreement expiration date will only be applicable to such WO and will not extend the expiration date for any other purposes whatsoever, including issuing new WOs and/or extending any other WO(s).

If the County authorizes the Contractor in writing to perform services on a given WO prior to the stated expiration date, but thereafter such services are not completed by the stated expiration date, then the expiration of the Agreement will be automatically extended solely to allow for the completion of such services. County may authorize unforeseen additional services and extend the WO expiration date as necessary to complete those services when the unforeseen additional services are directly related to the initial scope of work and are necessary for the completion of a given WO.

11.0 CONTRACT SUM

- 11.1. Contractor will not be entitled to any payment by County under this Agreement except pursuant to an executed and satisfactorily performed WO. In each year of this Agreement, the total of all amounts actually expended by County hereunder ("maximum annual expenditures") may not exceed amounts allocated for the Services to County Departments by the Board of Supervisors in their approved budgets.

The County has sole discretion to expend some, all, or none of such budgeted amounts. The sum of such maximum annual expenditures for the duration of the Agreement is the Contract Sum.

- 11.2. The Contractor will not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than the Contractor, whether through assignment, Subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, will occur only with the County's express prior written approval.
- 11.3. Contractor will have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or termination of this Agreement. Should Contractor receive any such payment it will immediately notify County and will immediately repay all such funds to County. Payment by County for services

rendered after expiration/termination of this Agreement will not constitute a waiver of County's right to recover such payment from Contractor. This provision will survive the expiration or other termination of this Agreement.

12.0 INVOICES AND PAYMENTS

- 12.1 For providing the tasks, deliverables, services, and other work authorized pursuant to this Agreement, Contractor must separately invoice County for each WO either (1) by Deliverable upon Acceptance of such Deliverable, if performed on a FP/D basis and/or (2) monthly, if performed on a T&M/D basis.
- 12.2 County will pay Contractor's invoices only for Services authorized under fully executed WOs and in accordance with the WO requirements. Payment for all work will be on either a T&M/D basis or a FP/D basis, subject to the Total Maximum Amount specified in each WO less any amounts assessed in accordance with Paragraph 44.0 ([Liquidated Damages](#)). County will not pay Contractor for any overtime premiums, travel expenses, meals, lodging, holidays, vacation, sick leave, per diem, or miscellaneous expenses, etc. County will never pre-pay for any Services and no WO will be subject to pre-payment. Contractor will submit an invoice only after performance of the Services covered by the respective invoice.
- 12.3 Contractor will be responsible for monitoring and controlling the number of hours worked by Consultant(s) assigned to each T&M/D WOs. In the case of FP/D WOs, Contractor will be responsible for monitoring and controlling the tasks and deliverables as specified in the WOs. Contractor must ensure that Consultant(s) do not work beyond a WO expiration date. Contractor must ensure that the billable work on a WO does not exceed the Total Maximum Amount as set forth in each WO. Further, Contractor must ensure that Consultant(s) who perform work on a WO are specified in that WO.
- 12.4 Fees for Services listed in a WO are exclusive of taxes unless otherwise stated in the respective WO. Such taxes, if any, will be itemized in the applicable invoices. Contractor will be liable and responsible for payment of any and all taxes arising from and/or applying to any and all tasks, deliverables, goods, services, and/or others work performed on WOs under this Agreement except for sales taxes due to the State of California, if any, for software updates on tangible media. Contractor must invoice the County for such taxes as part of Contractor's deliverable billing, and Contractor must pay such taxes collected in this manner to the State of California.
- 12.5 The parties understand that California does not presently impose a State value-added, sales/use, or similar tax on services. In the event such taxes are imposed by California in the future with respect to this Agreement, the amounts as set forth in the invoices submitted by Contractor must include applicable California and other state and local sales/use taxes itemized on all Services procured by County pursuant to or otherwise due as a result of this Agreement. All California sales/use taxes must be paid directly by Contractor to the State or other taxing authority. Contractor will be solely liable and responsible for any and all California and other state and local sales/use taxes billed by Contractor to County and paid by County to Contractor in accordance with this Agreement. In the event Contractor fails to pay such California or any other state or local sales/use tax and such taxes have been paid by County to Contractor, Contractor must reimburse County for any and all California or any other state or local sales/use tax amounts paid by County as a result of such failure.

- 12.6 Contractor will be solely responsible for all taxes based on Contractor's income or gross revenue, or personal property taxes levied or assessed on Contractor's personal property to which County does not hold title.
- 12.7 All work performed by, and all invoices submitted by, Contractor pursuant to WOs issued hereunder must receive the written approval of County's WO PM, or his or her designee, who will be responsible for a detailed evaluation of Contractor's performance before approval of work and/or payment of invoices is permitted.
- 12.8 Invoices under this Agreement must be submitted to the bill-to address(es) as set forth in the applicable WO.
- 12.9 Notwithstanding any other provision of this Agreement, and in addition to any other rights of County given by law or provided in this Agreement, County may upon written notice to Contractor, withhold all payments for a WO while Contractor is not providing Services under and in accordance with the WO or is otherwise in default hereunder.
- 12.10 The period of performance specified in Contractor's invoice(s) must coincide with the period of performance specified in the applicable WO. Each invoice submitted by Contractor must specify:
1. County issued WO number;
 2. Contractor's Master Agreement number;
 3. Period of performance of work being invoiced;
 4. Name(s) of Consultant who performed the work;
 5. In the case of a T&M/D WO, number of hours being billed for the individual(s) and the labor rate(s) as specified in the WO;
 6. A brief description of the Deliverable(s) for which payment is claimed, the respective number(s) assigned to the deliverable(s), date of written notification of receipt of Services by County's WO PM, and the individual amount being billed for each Deliverable, including:
 - a. Entry for any applicable Invoice Withhold amounts stated in the respective WO for payments claimed or reversals thereof;
 - b. Entry for any applicable credits due County under the terms of this Agreement or reversals thereof; and
 7. The total amount of the invoice.
- 12.11. If no payment terms are specified in the WO, the payment terms for any undisputed invoice are thirty (30) calendar days after receipt. Certified Local LSBEs will receive prompt payment for services they provide to County Departments. Prompt payment is defined as fifteen (15) calendar days after receipt of an undisputed invoice.
- 12.12. In the event discrepancies are found during the invoice review as provided in Section 12.7 above, County's WO PM, or his/her designee, will notify Contractor of such discrepancies and submit a list of disputed charges as soon as practicable, but no later than within thirty (30) days from the receipt of such disputed invoice by County.

Contractor must review the disputed charges and send a written explanation detailing the basis for the charges as soon as practicable, but no later than within fifteen (15) days of receipt of County's notice of discrepancies and disputed charges. "Discrepancies" as used in this Section 12.12, will mean, but it not limited to, the details on the invoice or the receiving report which do not conform to the applicable WO.

12.13. Default Method Of Payment: Direct Deposit or Electronic Funds Transfer:

The County, at its sole discretion, has determined that the most efficient and secure default form of payment for goods and/or services provided under an agreement/contract with the County will be Electronic Funds Transfer (EFT) or direct deposit, unless an alternative method of payment is deemed appropriate by the Auditor Controller (A-C).

1. The Contractor must submit a direct deposit authorization request via the website <https://directdeposit.lacounty.gov> with banking and Vendor information, and any other information that the A-C determines is reasonably necessary to process the payment and comply with all accounting, record keeping, and tax reporting requirements.
2. Any provision of law, grant, or funding agreement requiring a specific form of method of payment other than EFT or direct deposit will supersede this requirement with respect to those payments.
3. At any time during the duration of the Agreement, a Contractor may submit a written request for an exemption to this requirement. Such request must be based on specific legal business or operational needs and explain why the payment method designated by the A-C is not feasible and an alternative is necessary. The A-C, in consultation with the contracting department(s), will decide whether to approve exemption requests.

13.0 COUNTY ADMINISTRATION OF MASTER AGREEMENT

County's administrative personnel are listed in Exhibit C ([County's Administration of Master Agreement](#)). The County will notify the Contractor in writing of any change in the names or addresses shown.

13.1 County's Director, Internal Services Department (Director, ISD):

The Director, ISD or his or her designee, will have the authority to execute new Agreements with Vendors that have met the qualifications in one or more ESMA Service Categories as set forth in Exhibit A ([ESMA Service Categories](#)) and have been selected to become a Qualified Contractor, and terminate Agreements in accordance with Paragraph 56.0 ([Termination of Master Agreement](#)).

13.2 County's ESMA Administrator (ESMA Administrator):

1. The ESMA Administrator, or his or her designee, is responsible for the administration of this Agreement ensuring that Contractors are in compliance with the terms and conditions of this Agreement and that the objectives of this Agreement are met.
2. The ESMA Administrator has the authority to negotiate and recommend all changes to this Agreement; approve and execute WOSs, Addenda, WOs, and WO Amendments (in accordance with Section 15.3 ([Work Order Amendments](#)); add/or delete ESMA Service Categories in accordance with Paragraph 15.0 ([Amendments and Change Notices](#)), maintain

and update all records related hereto; and resolve disputes between ISD and/or County Departments and the Contractor.

3. The ESMA Administrator is the County's chief contact person with respect to the day-to-day administration of this Agreement and will generally be the first person for Contractor to contact with any questions.
4. The ESMA Administrator has the authority to review, determine and approve all Contractor requests to Subcontract in accordance with Paragraph 55.0 ([Subcontracting](#)).

13.3 County's Work Order Project Manager:

1. The WO PM will be responsible for ensuring that the technical standards and task requirements specified in each WO are complementary to each other and will provide on request any information, coordination, documentation, and/or materials as may be reasonably required by Contractor to perform WOs;
 - a. Coordinating and monitoring the work of Consultant(s) assigned to the WO PM's specific projects, and for
 - b. Monitoring, evaluating and reporting Contractor performance and progress on the WO;
 - c. Coordinating with Contractor's PM, on a regular basis, regarding the performance of Contractor's Personnel on each particular project; and
 - d. Providing direction to Contractor in the areas relating to County policy, information requirements, and procedural requirements.
2. County's WO PMs are not authorized to make any changes in WO rates, dollar totals, periods of performance, or in the terms and conditions of the WO or this Agreement, except through formally prepared WO Amendments executed by the County's ESMA Administrator as set forth in Section 15.3 ([Work Order Amendments](#)).

14.0 CONTRACTOR ADMINISTRATION OF MASTER AGREEMENT

Contractor's administrative personnel are listed in Exhibit D ([Contractor's Administration](#)). The Contractor must notify the County, in writing, of any change in the names or addresses specified in Exhibit D and must submit a revised Exhibit D.

Contractor must notify the County of any changes to Exhibit D in accordance with Paragraph 49.0 ([Notices](#)) and must submit a revised Exhibit D to the County. Such revised Exhibit D will be incorporated into the Agreement by this reference.

Contractor's administrative personnel listed in Exhibit D and all Consultant(s) must be W-2 employees of the Contractor. All Subcontractor personnel must be W-2 employees of the Subcontractor.

14.1 Contractor's Project Director:

1. Contractor's Project Director is designated in Exhibit D (Contractor's Administration).
2. Contractor's Project Director will be responsible for Contractor's administration of this Agreement and will coordinate with County's ESMA Administrator, or his or her designee, with respect to all administrative matters.

14.2 Contractor's Project Manager:

1. Contractor's PM is designated in Exhibit D (Contractor's Administration).
2. Contractor's PM will be responsible for Contractor's day-to-day activities as related to this Agreement and will coordinate with County's WO PMs on a regular basis with respect to all active WOs.

14.3 Contractor's Authorized Officials:

1. Contractor's Authorized Official(s) are designated in Exhibit D ([Contractor's Administration](#)).
2. Contractor represents and warrants that all requirements of Contractor have been fulfilled to provide actual authority to such officials to execute documents under this Agreement on behalf of Contractor.

14.4 Approval of Contractor Personnel (Consultant(s)):

1. County has the absolute and ongoing right to approve or disapprove all Consultant(s) performing work hereunder and any proposed changes in Consultant(s), including, but not limited to, Contractor's PM and Contractor's Project Director.
2. In fulfillment of its responsibilities under this Agreement, Contractor must utilize, and permit utilization of, only staff trained and experienced at appropriate industry standard levels, and, as appropriate, licensed or certified in the technology, trades, tasks, subtasks Deliverables and Services required by this Agreement. Contractor must supply sufficient staff to discharge its responsibilities hereunder in a timely and efficient manner.
3. Subsequent to approval, and at the County's sole discretion, County may disapprove Consultant(s) and may require the replacement of such personnel with reasonable justification as determined by County. Reasonable justification may include, but is not limited to, change in project priorities, scope, or cost, change in County policies, need for fewer or different personnel, personnel difficulties, performance difficulties, perceived or actual conflicts of interest, or other perceived or actual ethical, legal, or non-legal difficulties. Where a replacement request will result in a delay of Contractor's performance, Contractor must give County notice of such possible delay within three (3) business days of the receipt of the request for replacement. Thereafter, the parties, acting in good faith, must consider extending the performance dates in the applicable WO; provided, however, the County will not consent to any extensions where the replacement request is due to change in County Board of Supervisors' policies, conflicts of interest, or ethical or legal difficulties.
4. Contractor must not replace, remove, or reassign, any Consultant(s) who have been approved by County and assigned to a WO without the prior written approval by County's WO PM. The only allowed exceptions to this provision are instances of serious illness, death, employment termination, and other such causes beyond Contractor's control.
5. If Contractor desires, or is obliged, to replace, remove, or reassign any Consultant(s) from a WO, Contractor must furnish County's WO PM with a written notice of such intention within three (3) business days of Contractor's determination to take such action. In no event will Contractor proceed with a discretionary replacement, removal, or reassignment without

the advance prior written approval of County's WO PM, notwithstanding the exceptions set forth in this Section 14.4.

6. In the event that the County approves Contractor to proceed with a replacement of Consultant(s) for a WO, Contractor must provide the County with the following:
 - a. Within five (5) business days, propose an equally qualified replacement(s) who meets the Minimum Qualifications specified in the WO.
 - b. Resume of the proposed replacement(s) on Contractor's letterhead.
 - c. An opportunity to interview the proposed replacement(s).
 - d. Proposed replacement(s) whose hourly rate(s) will not be greater than the hourly rate(s) specified in the WO.
 - e. In the event that Contractor is unable to find a replacement(s), the County will terminate the WO and may rebid the entire solicitation to all current Qualified Contractors in the respective Service Category(ies).
7. All County approved replacement(s) will be effectuated by way of a WO Amendment as set forth in Section 15.3 ([Work Order Amendments](#)).
8. WOs issued under this Agreement are contracts with Qualified Contractors, not with specific individuals. Therefore, individuals transferring from one Qualified Contractor to another Qualified Contractor during the course of a WO, may not under any circumstance, transfer the WO(s) with the Consultant. In the event that Contractor loses personnel assigned to a WO, Contractor must adhere to the personnel replacement process set forth in this Section 14.4.
9. Consultant(s) who travel to a single location for more than one year or who are assigned to a project in a location other than their normal work location may be subject to increased U.S. federal, state and local taxes. Where possible, Contractor will manage the length of these assignments to mitigate such personnel being subject to increased tax liabilities, and will inform the County in advance when project personnel will be removed from the project site under this Paragraph 14.0. Notwithstanding the foregoing, Contractor will not remove specified personnel if, prior to their being assigned to the project site for more than one year, County agrees in writing to reimburse Contractor for the amounts payable to its personnel to cover the excess tax liability resulting from their being assigned to the project site for more than one year. Contractor's gross-up of employee compensation is intended to take into account the excess tax liability which may include federal, state, and local taxes. Application of tax law affecting Consultant(s) will be determined by Contractor.

14.5 Contractor Personnel Identification:

1. All Consultant(s) assigned to County facilities are required to have a County Identification (ID) badge on their person and visible at all times. Contractor bears all expense of the badging.
2. Contractor will be responsible for ensuring that employees have obtained a County ID badge before they are assigned to work in a County facility. Consultant(s) may be asked to leave a County facility by a County representative if they do not have the proper County ID badge on their person.

3. Contractor must notify the County within one (1) business day when Consultant(s) is terminated from a WO(s) issued under this Agreement. Contractor must retrieve and return an employee's County ID badge to the County on the next business day after the employee has terminated employment with the Contractor.
4. If County requests the removal of Consultant(s), Contractor must retrieve and return the employee's County ID badge to the County on the next business day after the employee has been removed from working on a WO(s) issued under this Agreement.

14.6 Background and Security Investigations:

1. Prior to execution of any WO, Contractor agrees to complete a background check ("Background Check") on all Consultant(s) providing Services pursuant to such WO. The Background Check must include, at a minimum, (i) identity verification and residence history, in any governmental construct (e.g., state, county, province, territory) throughout the world in which the Consultant(s) has resided during the seven (7) years preceding the commencement of his/her employment with Contractor; (ii) sanctions screening against the Office of Foreign Asset Control (OFAC) database(s); (iii) employment eligibility screening; (iv) employment verification for the past seven (7) years of employment or three (3) employers, whichever is greater; (v) education verification check; (vi) if legally permitted, criminal background checks, including fingerprint checks if it is industry practice; and (vii) if legally permitted, credit checks. Each Background Check must be performed in accordance with law and regulation. The fees associated with the Background Check will be at the expense of the Contractor. Contractor will not utilize any Consultant(s) with any discrepancies in a Background Check to provide any Services to County.
2. If identified by County as being required for certain Services, additional background investigation(s) may be required, each of which will be as set forth in the applicable WO. If any of Consultant(s) do not pass the background investigation(s), County will request that such personnel be immediately removed from performing Services under the applicable WO at any time during the term of the Agreement. If such background investigations are conducted by County, County will not provide to Contractor or to Consultant(s) any information obtained through the County's background investigation(s). County, in its sole discretion, may immediately deny or terminate facility access to any Consultant(s) that do not pass such investigation to the satisfaction of the County or whose background or conduct is incompatible with County facility access.
3. Disqualification of any Consultant(s) pursuant to this Section 14.6, will not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Agreement.

14.7 Confidentiality and Security:

1. Contractor must protect the security and maintain the confidentiality of all records, materials, documents, data, and/or other information received, obtained and/or produced under the provisions of this Agreement (collectively, County Confidential Information) in accordance with all applicable federal, state and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality, including, without limitation, County policies concerning information technology security and the protection of confidential records and information. Contractor must not disclose to any person or

entity any information identifying, characterizing, or relating to any trait, feature, function, risk, threat, vulnerability, weakness, or problem regarding any data or system security in County's computer system(s) nor any safeguard, counter-measure, contingency plan, policy, or procedure for any data or system security contemplated or implemented by County, without County's prior written approval.

2. Contractor must indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or Subcontractors, to comply with this Section 14.7 ([Confidentiality and Security](#)), as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Section 14.7, will be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County will have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County will be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor will not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of County without County's prior written approval.
3. Contractor must inform all of its officers, employees, agents and Subcontractors providing services hereunder of the confidentiality provisions of this Contract.
4. Contractor must sign and adhere to the provisions of Attachment B5 ([Contractor's Acknowledgement, Confidentiality and Copyright Assignment Agreement](#)) as set forth in Exhibit B ([Sample Work Order](#)).
5. Contractor must ensure that only those employees and/or non-employees required to perform the Services covered by this Agreement have access to County Confidential Information. All records, materials, documents, and/or other information of any kind obtained from County and all reports developed by Contractor and/or its Subcontractors under this Agreement are confidential to and are solely the property of the County.
6. Contractor must take the steps necessary to ensure that confidential records, materials, documents, data, and/or other information of any kind obtained from County will not be copied or reproduced by any method without the express, written approval of the County's WO PM.
7. Contractor acknowledges that a breach by Contractor of this Section 14.7, may result in irreparable injury to County that may not be adequately compensated by monetary damages, and that, in addition to County's other rights under this Section 14.7 and at law and in equity, County will have the right to seek injunctive relief to enforce the provisions of this Section 14.7.
8. In the event Contractor receives any court or administrative agency order, service of process, or request by any person or entity (other than Consultant(s)) for disclosure of any County Confidential Information, Contractor must promptly notify County's ESMA Administrator. Thereafter, Contractor must comply with such order, process or request only

to the extent required by applicable law. Notwithstanding the preceding sentence, to the extent permitted by law, Contractor must delay such compliance and fully cooperate with County to obtain relief from such obligations to disclose until County will have been given a reasonable opportunity to obtain such relief.

15.0 AMENDMENTS AND CHANGE NOTICES

15.1 Amendments to Master Agreement:

1. Board of Supervisors/Chief Executive Office Changes:

The County's Board of Supervisors or Chief Executive Officer or designee may require the addition and/or change of certain terms and conditions in the Agreement during the term of this Agreement. The County reserves the right to add and/or change such provisions as required by the County's Board of Supervisors or Chief Executive Officer. To implement such orders, an Amendment to the Agreement must be prepared and executed by the Contractor and by the Director, ISD or his or her designee.

2. Master Agreement Amendments:

- a. In accordance with Paragraph 16.0 ([Assignment and Delegation/Mergers or Acquisitions](#)), any assumption, assignment, delegation, company name change or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, Subcontract, delegation, merger, buyout, company name change or any other mechanism, under the Agreement, will be done pursuant to an Amendment to the Agreement that is prepared by County and executed by the Contractor and the Director, ISD or his or her designee. Such Amendment will be prepared only after County has granted its prior written approval.
- b. Notwithstanding any other provisions of this Section 15.1, for any change which affects the scope of work, term, payments, any condition, or any rights or obligations of this Agreement, an Amendment to the Agreement will be prepared and executed by the Contractor and by the Director, ISD or his or her designee.
- c. EXTENSIONS OF TERM: The Director, ISD or his designee may, at his sole discretion, authorize the County's ESMA Administrator to extend this Agreement in accordance with Paragraph 10.0 ([Term of Master Agreement](#)). The Contractor agrees that such extensions of the term will not change any other term or condition of this Agreement during the period of such extensions. To implement an extension of the term, an Amendment to the Agreement will be prepared and executed by the Contractor and the Director, ISD or his or her designee.
- d. ADDITION/DELETION OF ESMA SERVICE CATEGORIES: Throughout the term of this Agreement the County's ESMA Administrator or his or her designee may, at his or her sole discretion, add to or delete from the ESMA Service Categories set forth in Exhibit A ([ESMA Service Categories](#)). To add or delete ESMA Service Categories, an Amendment to the Agreement will be prepared by County and executed by the Contractor and the Director, ISD or his or her designee.

15.2 Change Notices to Master Agreement:

Notwithstanding any other provisions of this Paragraph 15.0, for any change which does not affect the scope of work, term, payments, any condition or any rights or obligations of this Master Agreement, a Change Notice will be prepared by County and executed by the Contractor and the County's ESMA Administrator or his or her designee.

15.3 Work Order Amendments:

15.3.1 For any WOs issued under this Agreement, changes that affect the SOW, hourly rates, Total Maximum Amount, deliverable prices, changes extending the period of performance of any WO, and/or changes substituting or modifying the assignment of Consultant(s), a WO Amendment will be prepared and executed by the Contractor and the County's ESMA Administrator or his or her designee.

15.3.2 Once executed, WOs may only be amended at the sole discretion of the Director, ISD, or designee.

15.3.3 Amendments to WOs may only occur prior to the WO's expiration date (no retroactive amendments will be permitted).

15.3.4 Amendments to WOs will not be permitted if the desired amendment substantively alters the initial SOW to such an extent as to have rendered the initial solicitation process as unfair to other Vendors who participated in the solicitation. Such determination will be solely within the discretion of the ESMA Administrator.

15.3.5 To commence the WO Amendment process, the County's WO PM and the Contractor will meet and agree upon the need and justification for a WO Amendment. Once both parties agree, the County WO PM and Contractor will prepare an Amendment to the original WO and submit the Amendment to the ESMA Administrator for approval.

15.3.6 Upon receipt of the above documents, ESMA Administrator will:

- a. Determine whether or not a WO Amendment is permissible under the ESMA;
- b. Determine whether or not the supporting documentation submitted by the County's PM and Contractor justify a WO Amendment;
- c. Inform the County WO PM if the desired WO Amendment was found to be permissible and justified; and
- d. If approved, sign and return the WO Amendment to the County's WO PM;

Said signed approval of the WO Amendment by the ESMA Administrator and all supporting documentation will collectively constitute the executed WO Amendment.

15.3.7 No work on the WO Amendment will commence until such time as the ESMA Administrator has formally executed and issued the WO Amendment.

16.0 ASSIGNMENT AND DELEGATION/MERGERS OR ACQUISITIONS

16.1 The Contractor must notify the County of any pending acquisitions/mergers of its company unless otherwise legally prohibited from doing so. If the Contractor is restricted from legally notifying the County of the pending acquisitions/mergers, then it should notify the County of

the actual acquisitions/mergers as soon as the law allows and provide to the County the legal framework that restricted it from notifying the County prior to the actual acquisitions/mergers.

- 16.2 The Contractor must not assign, exchange, transfer, or delegate its rights or duties under this Agreement, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment, delegation, or otherwise transfer of its rights or duties, without such consent will be null and void. For purposes of this Paragraph 16.0, County consent will require a written amendment to the Agreement, which is formally approved and executed by the parties. Any payments by the County to any approved delegate or assignee on any claim under this Agreement will be deductible, at County's sole discretion, against the claims, which the Contractor may have against the County.
- 16.3 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any person or entity other than the Contractor, whether through assignment, Subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, will be a material breach of the Agreement which may result in the termination of this Agreement. In the event of such termination, County will be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

17.0 NO THIRD PARTY BENEFICIARIES

Notwithstanding any other provision of this Agreement, Contractor and County do not in any way intend that any person or entity will acquire any rights as a third party beneficiary of this Agreement, except that this provision will not be construed to diminish Contractor's indemnification obligations hereunder.

18.0 AUTHORIZATION WARRANTY

The Contractor represents and warrants that the person executing this Agreement for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition, and obligation of this Agreement and that all requirements of the Contractor have been fulfilled to provide such actual authority.

19.0 PROPRIETARY CONSIDERATIONS

19.1 Pre-Existing Work:

Pre-existing Work will remain the sole property of the party providing the Pre-existing Work. During the performance of the Services in any WO, each party grants to the other part (and Contractor's Contractors and County's Contractors and other agents, as necessary) a temporary, non-exclusive, paid-up license to use, execute, reproduce, display and perform, any of its Pre-existing Work provided to the other party solely for the performance of such Services during the term of this Agreement. To the extent any Contractor Pre-existing Work is incorporated into any Deliverables, Contractor grants County a non-exclusive, perpetual, irrevocable, fully paid-up license to use, reproduce and modify (if applicable) Contractor's Pre-existing Work in the form delivered to County as part of the Deliverables, provided that the Contractor Pre-existing Work is not used, copied or distributed separately from the Deliverables by County.

19.2 **Rights to Deliverables:**

1. **County IP:** County will be the sole owner of all right, title and interest, including copyright, in and to all Deliverables designated as County IP in the applicable WO. Contractor, for valuable consideration herein provided, must execute all documents necessary to assign and transfer to, and vest in County all of Contractor's right, title and interest in and to such County IP, including any copyright, patent and trade secret rights which arise pursuant to Contractor's provision of the applicable Services under this Agreement. Contractor must affix the following notice to all County IP in the form of documentary and software items originated pursuant to this Agreement: "© Copyright _____, (such date as may be appropriate, i.e., 2016, etc.), County of Los Angeles. All rights Reserved." Contractor must affix such notice: (1) at the beginning and at the end of any and all source code, such that on storage media and on printouts the notice appears with or near the title of each program; (2) continuously on all sign-on display screens; (3) on the title or inside cover page of all system, user, and technical documentation; and (4) as otherwise may be directed by County.
2. **Joint IP:** Upon payment in full, Contractor grants County joint ownership of any Deliverables designated as Joint IP in the applicable WO. Joint ownership means that each party has the right to independently exercise any and all rights of ownership now known or hereafter created or recognized, including without limitation the rights to use, reproduce, modify and distribute the Joint IP for any purpose, without the need for further authorization to exercise any such rights or any obligation of accounting or payment of royalties. County agrees to exercise its joint ownership rights for its business operations only and County will not resell Joint IP to any third party. Each party will be the sole owner of any modifications that it makes to Joint IP. County business operations must include use of Joint IP by all governmental entities (including agencies and cities) located within the Los Angeles County political/geographic borders for such entities' own internal business operations. Such other entities are prohibited from any other use and assignment, and County must state those prohibitions in writing to such other entities to which County makes any assignment or permits any use.
3. **Tools:** Contractor will retain sole and exclusive ownership rights in and to any tools or scripting applications developed or created by Contractor during the performance of Services hereunder (collectively, "Tools"). To the extent the Deliverables includes any Tools and/or County requires use of such Tools to permit County to use the Deliverables, Contractor will be deemed to have granted County a nonexclusive, perpetual, royalty-free, irrevocable, worldwide, and enterprise-wide license to use, reproduce, alter, adapt, modify and display such Tools to permit County to receive the full benefit of the use of the Deliverables, including exercising any rights granted to it in above Subparagraphs 19.2(1) and 19.2(2), provided that such Tools are not used, copied or distributed separately from the Deliverables by County.
4. **Residuals:** Nothing in Section 14.7 ([Confidentiality and Security](#)) of this Agreement will preclude Contractor from using any general information, ideas, concepts, know-how, techniques, programming routines and subroutines, methodologies, processes, skills, or expertise (collectively, "Residual Information") which Contractor's employees or Subcontractors retain in their unaided memory and derive from the performance of Services

hereunder, and which are no more than skillful variations of general processes known to the computer data processing and/or information technology industries, provided, however, that Contractor does not breach its confidentiality obligations hereunder. This use does not grant Contractor any rights under the County's copyright and patent rights and does not require the payment of royalties or a separate license.

19.3 No Product Provided:

No Product will be provided through or licensed under this Agreement.

20.0 COMPLIANCE WITH APPLICABLE LAW

20.1 In the performance of this Agreement, Contractor must comply with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, and all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference. Contractor will have up to fifteen (15) calendar days to correct any noncompliance with County rules, regulations, ordinances, guidelines and directives following written notice from County to Contractor, including written copies of such applicable rules, regulations, ordinances, guidelines and/or directives.

Contractor must indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or Subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its reasonable judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 20.0 will be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County will have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County will be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor will not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

21.0 COMPLIANCE WITH CIVIL RIGHTS LAWS

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person will, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement. Additionally, Contractor Certifies to the County:

1. That contractor has a written policy statement prohibiting discrimination in all phases of employment.
2. That contractor periodically conducts a self-analysis or utilization analysis of its work force.

3. That Contractor has a system for determining if its employment practices are discriminatory against protected groups.
4. Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action, to include establishment of goals or timetables.

22.0 COMPLIANCE WITH COUNTY PROCEDURES

Contractor agrees to comply with County's security and safety rules, policies and procedures (in this Paragraph 22.0 "procedures") while performing Services on County's site, provided that such procedures do not violate any State, local, or Federal laws (including privacy laws); that such procedures are expressly applicable to Contractor's provision of Services at the site at which Contractor is performing Services under this Agreement; that County makes available to each Consultant(s) performing Services at County's site prior to commencement of such Services; that such procedures do not modify or amend the terms and conditions of the Agreement, and that County provides Contractor with any training regarding the procedures as reasonably requested by Contractor.

23.0 CONFLICT OF INTEREST

- 23.1 No County employee whose position with the County enables such employee to influence the award of this Agreement or any competing Master Agreement, and no spouse or economic dependent of such employee, will be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder will in any way participate in the County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.
- 23.2 Contractor must comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it must immediately make full written disclosure of such facts to the County. Full written disclosure must include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this Paragraph 23.0 will be a material breach of this Agreement.

24.0 CONTRACTOR RESPONSIBILITY AND DEBARMENT

24.1 Responsible Contractor:

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Agreement. It is the County's policy to conduct business only with responsible Contractors.

24.2 Chapter 2.202 of the County Code:

The Contractor is hereby notified that, in accordance with [Chapter 2.202 of the Los Angeles County Code](#), if the County acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in this Agreement, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a

specified period of time, which generally will not exceed five (5) years but may exceed five (5) years or be permanent if warranted by the circumstances, and terminate any or all existing Contracts the Contractor may have with the County.

24.3 Non-Responsible Contractor:

The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

24.4 Contractor Hearing Board:

1. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented.

The Contractor and/or the Contractor's representative will be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board will prepare a tentative proposed decision, which will contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department will be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board will be presented to the Board of Supervisors. The Board of Supervisors will have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.

The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than

five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation.

Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board will conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing will be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

5. The Contractor Hearing Board's proposed decision will contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board will present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors will have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

24.5 Subcontractors of Contractor:

These terms will also apply to Subcontractors of County Contractors.

25.0 CONTRACTOR'S WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

- 25.1 Contractor acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.
- 25.2 Unless Contractor qualifies for an exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this contract will maintain compliance, with [Los Angeles County Code Chapter 2.206](#).

26.0 CONTRACTOR'S WARRANTY AGAINST CONTINGENT FEES

- 26.1 Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.
- 26.2 For breach of this warranty, the County will have the right to terminate this Master Agreement and, at its sole discretion, deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

27.0 COUNTY'S QUALITY ASSURANCE PLAN

The County or its agent will monitor the Contractor's performance under this Agreement on not less than an annual basis. Such monitoring will include assessing the Contractor's compliance with all Agreement terms and conditions and performance standards. Contractor deficiencies which the County determines are significant or continuing and that may place performance of this Agreement in jeopardy if not corrected will be reported to the Board of Supervisors ("Board") and listed in the appropriate contractor performance data base. The report to the Board will include

improvement/corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate this Agreement or impose other penalties as specified in this Agreement.

The County maintains databases that track/monitor Contractor performance history. Information entered into such databases may be used for a variety of purposes, including determining whether the County will exercise a contract term extension option.

28.0 COUNTY FACILITY OFFICE SPACE

In order for Contractor to perform Services hereunder and only for the performance of such Services, County may elect, subject to County's administrative and security requirements, to provide Contractor with office space and equipment, as determined at the discretion of the County's ESMA Administrator and the applicable Department's Chief Information Officer or Information Technology Manager at County facilities, on a non-exclusive use basis. County will also provide Contractor with reasonable telephone service in such office space for use only for purposes of this Agreement. County disclaims any and all responsibility for the loss, theft or damage of any property or material left at such County office space by Contractor.

29.0 ACCESS TO COUNTY FACILITIES

Contractor, its employees and agents, may be granted access to County facilities, subject to Contractor's prior notification to County's ESMA Administrator and the applicable Department's Chief Information Officer or Information Technology Manager, for the purpose of executing Contractor's obligations hereunder. Access to County facilities will be restricted to normal business hours, 8:00 a.m. until 5:00 p.m., Pacific Time, Monday through Friday, County observed holidays excepted. Access to County facilities outside of normal business hours must be approved in writing in advance by County's ESMA Administrator and the applicable Department's Chief Information Officer or Information Technology Manager, which approval will not be unreasonably withheld. Contractor will have no tenancy, or any other property or other rights, in County facilities. While present at County facilities, Consultant(s) must be accompanied by County personnel at all times, unless this requirement is waived in writing prior to such event by County's ESMA Administrator and the applicable Department's Chief Information Officer or Information Technology Manager.

30.0 PHYSICAL ALTERATIONS OF COUNTY FACILITIES

Contractor will not in any way physically alter or improve any County facility without the prior written approval of the County's ESMA Administrator and the applicable Department's Chief Information Office or Information Technology Manager.

31.0 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

- 31.1 Contractor must repair, or cause to be repaired, at its own cost, any and all damage, except normal wear and tear, to County facilities, buildings, or grounds caused by Contractor or employees or agents of Contractor. Such repairs must be made immediately after Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

If Contractor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs must be repaid by Contractor by

cash payment upon demand or, without limitation of all County's other rights and remedies provided by law or under this Master Agreement, County may deduct such costs from any amounts due Contractor from County under this Master Agreement.

32.0 EMPLOYMENT ELIGIBILITY VERIFICATION

- 32.1 The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Agreement meet the citizenship or alien status requirements as set forth in Federal and State statutes and regulations. The Contractor must obtain from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor must retain all such documentation for all covered employees for the period prescribed by law.
- 32.2 The Contractor must indemnify, defend, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Agreement.

33.0 COUNTERPARTS AND ELECTRONIC SIGNATURES AND REPRESENTATIONS

This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same Agreement. The facsimile, email or electronic signature of the Parties will be deemed to constitute original signatures, and facsimile or electronic copies hereof will be deemed to constitute duplicate originals.

The County and the Contractor hereby agree to regard electronic representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments and Change Notices prepared pursuant to Paragraph 15.0 ([Amendments and Change Notices](#)) and received via communications facilities (facsimile, email or electronic signature), as legally sufficient evidence that such legally binding signatures have been affixed to Amendments to this Agreement.

34.0 FAIR LABOR STANDARDS

The Contractor must comply with all applicable provisions of the Federal Fair Labor Standards Act and must indemnify, defend, and hold harmless the County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

35.0 FORCE MAJEURE

- 35.1 Neither party will be liable for such party's failure to perform its obligations under and in accordance with this Agreement, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by

such party or any of such party's Subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this Paragraph 35.0 as "force majeure events").

- 35.2 Notwithstanding the foregoing, a default by a Subcontractor of Contractor will not constitute a force majeure event, unless such default arises out of causes beyond the control of both Contractor and such Subcontractor, and without any fault or negligence of either of them. In such case, Contractor will not be liable for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule. As used in this Paragraph 35.0, the term "Subcontractor" and "Subcontractors" mean Subcontractors at any tier.
- 35.3 In the event Contractor's failure to perform arises out of a force majeure event, Contractor agrees to use best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

36.0 CONTRACTOR PERFORMANCE DURING CIVIL UNREST AND DISASTER

Contractor recognizes that County provides services essential to the residents of the communities it serves, and that these services are of particular importance at the time of a riot, insurrection, civil unrest, natural disaster or similar event. Notwithstanding any other provision of this Agreement, full performance by Contractor during any riot, insurrection, civil unrest, natural disaster or similar event is not excused if such performance remains physically possible without related danger to Contractor's or its Subcontractors' employees and suppliers. During any such event in which the health or safety of any of Contractor's staff members would be endangered by performing the Services on-site, such staff members may perform any or all of the Services remotely.

37.0 GOVERNING LAW, JURISDICTION, AND VENUE

This Agreement will be governed by, and construed in accordance with, the laws of the State of California. Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder will be exclusively in the County of Los Angeles.

38.0 INDEPENDENT CONTRACTOR STATUS

- 38.1 This Agreement is by and between the County and the Contractor and is not intended, and will not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party will not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.
- 38.2 Contractor will be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement all compensation and benefits. The County will have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.

38.3 Contractor understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. Contractor will be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Agreement.

38.4 Contractor must adhere to the provisions stated in Section 14.7 ([Confidentiality and Security](#)).

39.0 INTELLECTUAL PROPERTY INDEMNIFICATION

39.1 Contractor represents and warrants that, as of the Effective Date, (a) Contractor has the full power and authority to grant the rights granted by this Agreement to County, (b) no consent of any other person or entity is required by Contractor to grant such rights other than consents that have been obtained and are in effect, (c) County is entitled to use the Deliverables provided by Contractor under this Agreement, including any open-source or freeware or any other software provided and utilized by Contractor for provision of such Services, without interruption of system use or business operations, subject only to County's payment obligations under this Agreement, (d) this Agreement, the Services and/or the Deliverable(s) are neither subject to any liens, encumbrances, or pledges nor subordinate to any right or claim of any third party, including Contractor's creditors, (e) during the term of this Agreement, Contractor will not subordinate this Agreement or any of its rights hereunder to any third party without the prior written consent of County, and without providing in such subordination instrument for non-disturbance of County's use of the Deliverable(s) and/or Services (or any part thereof) in accordance with this Agreement.

39.2 Contractor must indemnify, hold harmless and defend the County Indemnitees, as defined below, from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, arising from any claims made by a third party for or by reason of any actual or alleged infringement of any third party's U.S. patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to this Agreement and/or the operation and utilization of the Deliverables, and/or any other products of the Services provided under this Agreement (Infringement Claim). Notwithstanding the foregoing, Contractor will have no indemnity obligation for Infringement Claims arising from: (a) the development of custom software code required by County and based on specifications provided by County and where Contractor has advised County of potential infringement in writing; (b) County's failure to implement an update, change or enhancement to an item provided by Contractor, provided that Contractor provides the change, update or enhancement at no additional charge to County and provides County with written notice that implementing the change, update or enhancement would avoid the infringement; (c) the combination of the subject of the Infringement Claim with third party products and/or services, where the claim arises from the combination. County will inform Contractor as soon as practicable of any Infringement Claim, and will support Contractor's defense and settlement thereof. Notwithstanding the foregoing, County will have the right to participate in any such defense at its sole cost and expense.

39.3 In the event any Deliverable and/or any other product of the Services under this Agreement (Indemnified Item(s)) becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that County's continued use of such item is

formally restrained, enjoined, or subjected to a risk of damages, Contractor, at its sole expense, and providing that County's continued use of such Indemnified Item is not materially impeded, will either:

1. Procure for County all rights to continued use of the questioned Indemnified Item; or
2. Replace the Indemnified Item with a non-questioned item; or
3. Modify the questioned Indemnified Item so that it is free of claims.

If none of these options is reasonably available to Contractor, the County will cease using the Indemnified Item and Contractor will refund all fees paid by County to Contractor for such Indemnified Item.

- 39.4 Due to the type and nature of Services requested in this Agreement, the Contractor's obligations as set forth in this Paragraph 39.0 may be adjusted by County in each WOS; provided, however any such adjustment will only expand or increase the Contractor's obligations as set forth in the applicable WOS and any terms in any resultant WO which limit, relieve or decrease the Contractor's obligations with respect to this Paragraph 39.0 will be void and of no effect.

40.0 CONTRACTOR ACTS AND/OR OMISSIONS INDEMNIFICATION

- 40.1 Contractor must indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, agents, and volunteers ("County Indemnitees") from and against any and all third party liability, including, but not limited to, claims demands, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the Contractor's acts and/or omissions arising from and/or relating to this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the County Indemnitees.
- 40.2 Contractor must pay all costs, damages, and attorneys' fees that a court finally awards or that are included in a settlement approved by Contractor, provided that County provides Contractor with prompt written notice of any such claim.
- 40.3 Contractor has sole control over the defense of the claims, and County will provide reasonable cooperation in the Contractor's defense and any related settlement negotiations. Any legal defense will be conducted by Contractor and counsel of its choice. Notwithstanding the preceding sentence, County will have the right to participate in any such defense at County's sole cost and expense.
- 40.4 In the event Contractor fails to provide County with a full and adequate defense, as County determines, County will be entitled to retain its own counsel and receive reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor will not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission on behalf of County without the County's prior written approval.
- 40.5 Due to the type and nature of Services requested in this Agreement, the Contractor's obligations set forth in this Paragraph 40.0 may be adjusted by County in each WOS; provided, however any such adjustment will only expand or increase the Contractor's obligations as set forth in the applicable WOS and any terms in any resultant WO which limit, relieve or decrease the Contractor's obligations with respect to this Paragraph 40.0 will be void and of no effect.

41.0 LIMITATION OF LIABILITY

- 41.1 Except as set forth herein, any monetary liability of Contractor to County with respect to each WO will be limited to the amount of damages up to and including one and one half times the Total Maximum Amount of the applicable WO, or the insurance limits required in Paragraph 43.0 ([Insurance Coverage](#)), whichever is greater. Except as to cover costs as set forth in Section 56.3 ([Termination for Default](#)), and Contractor's breach of the Paragraphs as set forth in Section 41.4, Contractor or County will not be liable to the other for any special, incidental, indirect, or exemplary damages, or for any economic consequential damages (including lost profits or savings), even if the other party is informed of their possibility.
- 41.2 Nothing in this Paragraph 41.0 will be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with Paragraph 44.0 ([Liquidated Damages](#)) and the requirements of the applicable WO.
- 41.3 Nothing in this Paragraph 41.0 will limit Contractor's liability for personal injury and/or property damage caused by Contractor's negligent, tortious, and/or unlawful acts and/or omissions.
- 41.4 Any monetary liability of Contractor arising from Contractor's obligations to County under Paragraph 20.0 ([Compliance with Applicable Law](#)), Paragraph 32.0 ([Employment Eligibility Verification](#)), Paragraph 34.0 ([Fair Labor Standards](#)), Paragraph 39.0 ([Intellectual Property Indemnification](#)), Paragraph 40.0 ([Contractor Acts And/Or Omissions Indemnification](#)), Paragraph 42.0 ([General Provisions for all Insurance Coverage](#)), Section 14.7 ([Confidentiality and Security](#)) and Paragraph 55.0 ([Subcontracting](#)) will be limited to the amount of damages set forth on Exhibit F ([ESMA Risk Schedule](#)).
- 41.5 The remedies specified in Paragraph 9.0 ([Work Order Warranty\(ies\)](#)) are the sole and exclusive remedies provided for breach of the warranties as set forth in Section 9.1 ([Work Order Warranty\(ies\)](#)).
- 41.6 The remedies set forth in this Paragraph 41.0 are not exclusive, and their application will not be construed as a waiver of any other remedy provided by law or as set forth in this Agreement.
- 41.7 Due to the type and nature of Services requested in this Agreement, the limitations of liability set forth in this Paragraph 41.0 may be adjusted by County in each WOS; provided, however any such adjustment will only expand or increase the Contractor's obligations as set forth in the applicable WOS and any terms in any resultant WO which limit, relieve or decrease the Contractor's obligations with respect to this Paragraph 41.0 will be void and of no effect.

42.0 GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE

Without limiting Contractor's indemnification of County, and in the performance of this Agreement and until all of its obligations pursuant to this Agreement have been met, Contractor must provide and maintain at its own expense insurance coverage satisfying the requirements specified in this Paragraph 42.0 ([General Provisions for all Insurance Coverage](#)) and Paragraph 43.0 ([Insurance Coverage](#)) of this Agreement. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Contractor pursuant to this Agreement. The County in no way warrants that the Required Insurance is sufficient to protect the Contractor for liabilities which may arise from or relate to this Agreement.

42.1 Evidence of Coverage and Notice to County:

1. Certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and its Agents (defined below) has been given Insured status under the Contractor's General Liability policy, must be delivered to County at the address shown below and provided prior to commencing services under this Agreement.
2. Renewal Certificates must be provided to County not less than ten (10) days prior to Contractor's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Contractor and/or Subcontractor insurance policies at any time.
3. Certificates must identify all Required Insurance coverage types and limits specified herein, reference this Agreement by name and/or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate must match the name of the Contractor identified as the contracting party in this Agreement. Certificates must provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding Fifty Thousand Dollars (\$50,000), and list any County required endorsement forms.
4. Neither the County's failure to obtain, nor the County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by the Contractor, its insurance broker(s) and/or insurer(s), will be construed as a waiver of any of the Required Insurance provisions. Certificates and copies of any required endorsements must be sent to the ESMA Administrator, listed in Exhibit C ([County's Administration of Master Agreement](#)), Attention: ESMA Insurance.
5. Contractor also must promptly report to County any injury or property damage accident or incident, including any injury to a Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Contractor. Contractor also must promptly notify County of any third party claim or suit filed against Contractor or any of its Subcontractors which arises from or relates to this Agreement, and could result in the filing of a claim or lawsuit against Contractor and/or County.

42.2 Additional Insured Status and Scope of Coverage:

The County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers (collectively County and its Agents) must be provided additional insured status under Contractor's General Liability policy with respect to liability arising out of Contractor's ongoing and completed operations performed on behalf of the County. County and its Agents additional insured status will apply with respect to liability and defense of suits arising out of the Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the County. The full policy limits and scope of protection also will apply to the County and its Agents as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

42.3 Cancellation of or Changes in Insurance:

Contractor must provide County with, or Contractor's insurance policies must contain a provision that County will receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice must be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the Agreement, in the sole discretion of the County, upon which the County may suspend or terminate this Agreement in accordance with Paragraph 56.0 ([Termination of Master Agreement](#)).

42.4 Failure to Maintain Insurance:

Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance will constitute a material breach of the Agreement, upon which County immediately may withhold payments due to Contractor, and/or suspend or terminate this Agreement in accordance with Section 56.3 ([Termination for Default](#)). County, at its sole discretion, may obtain damages from Contractor resulting from said breach. Alternatively, the County may purchase the Required Insurance, and without further notice to Contractor, deduct the premium cost from sums due to Contractor or pursue Contractor reimbursement.

42.5 Insurer Financial Ratings:

Coverage must be placed with insurers acceptable to the County with A.M. Best ratings of not less than A:VII unless otherwise approved by County.

42.6 Contractor's Insurance Must Be Primary:

Contractor's insurance policies, with respect to any claims related to this Agreement, must be primary with respect to all other sources of coverage available to Contractor. Any County maintained insurance or self-insurance coverage will be in excess of and not contribute to any Contractor coverage.

42.7 Waivers of Subrogation:

To the fullest extent permitted by law, the Contractor hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to this Agreement. The foregoing will not apply to Contractor's Professional Liability Insurance. Contractor must require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

42.8 Subcontractor Insurance Coverage Requirements:

Contractor must include all Subcontractors as insureds under Contractor's own policies, or must provide County with each Subcontractor's separate evidence of insurance coverage. Contractor be responsible for verifying each Subcontractor complies with the Required Insurance provisions herein, and must require that each Subcontractor name the County and Contractor as additional insured on the Subcontractor's General Liability policy. Contractor must obtain County's prior review and approval of any Subcontractor request for modification of the Required Insurance.

42.9 Deductibles and Self-Insured Retentions (SIRs):

Contractor's policies must not obligate the County to pay any portion of any Contractor deductible or SIR. The County retains the right to require Contractor to reduce or eliminate policy deductibles and SIRs as respects the County, or to provide a bond guaranteeing Contractor's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond must be executed by a corporate surety licensed to transact business in the State of California.

42.10 Claims Made Coverage:

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date must precede the effective date of this Agreement. Contractor understands and agrees it must maintain such coverage for a period of not less than three (3) years following Agreement expiration, termination or cancellation.

42.11 Application of Excess Liability Coverage:

Contractor may use a combination of primary, and excess insurance policies which provide coverage as broad as the underlying primary policies, to satisfy the Required Insurance provisions.

42.12 Separation of Insureds:

All liability policies must provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

42.13 Alternative Risk Financing Programs:

County reserves the right to review, and then approve, Contractor use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements, corporate certificate, and/or captive insurance to satisfy the Required Insurance provisions. The County and its Agents must be designated as an Additional Covered Party under any approved program.

42.14 County Review and Approval of Insurance Requirements:

County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

43.0 INSURANCE COVERAGE

Due to the types and nature of the products and services requested in this Agreement, the limits and types of insurance may be adjusted in each WOS.

43.1 Commercial General Liability Insurance:

Commercial General Liability insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County and its Agents as an additional insured, with limits of not less than:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

43.2 Automobile Liability Insurance:

Automobile Liability insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance must cover liability arising out of Contractor's use of autos pursuant to this Agreement, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

43.3 Workers Compensation and Employers' Liability Insurance:

Workers Compensation and Employers' Liability insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also must include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form must be modified to provide that County will receive not less than ten (10) days advance written notice of cancellation for non-payment of premium and thirty (30) days advance written notice for any other cancellation or policy change of this coverage provision. If applicable to Contractor's operations, coverage also must be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

43.4 Technology Errors & Omissions Insurance:

Technology Errors & Omissions insurance naming County and its Agents as an additional insured, and including coverage for liabilities arising from errors, omissions, or negligent acts in rendering or failing to render computer or information technology services and technology products. Coverage for violation of software copyright should be included. Technology services should at a minimum include (1) systems analysis (2) systems programming (3) systems integration (4) systems design, consulting, development and modification (5) data entry, modification, verification, retrieval or preparation of data output, and any other services provided by the Vendor with limits of \$2 million.

43.5 Cyber Liability Insurance:

The Contractor must secure and maintain cyber liability insurance coverage with limits of not less than \$2 million per occurrence and in the aggregate during the term of the Agreement, including coverage for: network security liability; privacy liability; privacy regulatory proceeding, defense, response, expenses and fines; technology professional liability (errors and omissions); privacy breach expense reimbursement (liability arising from the loss or disclosure of County Information no matter how it occurs); system breach; denial or loss of service; introduction, implantation, or spread of malicious software code; unauthorized access to or use of computer systems; and Data/Information loss and business interruption; any other liability or risk that arises out of the Agreement. The Contractor must add the County as an additional insured to its cyber liability insurance policy and provide to the County certificates of insurance evidencing the foregoing upon the County's request. The procuring of the insurance described herein, or delivery of the certificates of insurance described herein, must not be construed as a limitation upon the Contractor's liability or as full performance of its indemnification obligations

hereunder. No exclusion/ restriction for unencrypted portable devices/media may be on the policy.

43.6 Property Coverage Insurance:

Property coverage insurance must be endorsed naming County as loss payee, must include valuable papers and records insurance while in Contractor's care, custody, or control with blanket coverage, unscheduled, all risk form, with limit of not less than \$50,000.

43.7 Professional Liability/Errors and Omissions:

Insurance covering Contractor's liability arising from or related to this Agreement, with limits of not less than \$1 million per claim and \$2 million aggregate. Further, Contractor understands and agrees it must maintain such coverage for a period of not less than three (3) years following this Agreement's expiration, termination or cancellation.

44.0 LIQUIDATED DAMAGES

44.1 If, in the judgment of the Director, ISD or his or her designee, acting reasonably, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, upon the provision of written notice of such noncompliance to the Contractor and the Contractor's failure to cure any such noncompliance within ten (10) days, the Director, ISD or his or her designee, at his or her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire payment due and payable or deduct pro rata from the Contractor's invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from payments to the Contractor from the County, will be forwarded to the Contractor by the Director, ISD or his designee, in a written notice describing the reasons for said action.

44.2 If the Director, ISD or his or her designee, acting reasonably, determines that there are material deficiencies in the performance of a WO that the Director, ISD or his or her designee, deems are correctable by the Contractor over a certain time span, the Director, ISD or his or her designee, will provide a written notice to the Contractor to correct the deficiency within specified time frames. Should the Contractor fail to correct deficiencies within said time frame, the Director, ISD or his or her designee may:

1. Deduct from the Contractor's payment, pro rata, those applicable portions of the Total Maximum Amount for the applicable WO; and/or
2. Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is One Hundred Dollars (\$100) per day per infraction, and that the Contractor must be liable to the County for liquidated damages in said amount. The parties agree that the amount of the liquidated damages for each WO must be limited to the Total Maximum Amount of the applicable WO. Said amount must be deducted from the County's payment to the Contractor; and/or
3. Upon giving five (5) days' notice to the Contractor for failure to correct the deficiencies, the County may correct any and all deficiencies and the total costs incurred by the County for completion of the work by an alternate source, whether it be County workforce or

separate private Contractor, will be deducted and forfeited from the payment to the Contractor from the County, as determined by the County.

4. The action noted in this Section 44.2, will not be construed as a penalty, but as adjustment of payment to the Contractor to recover the County cost due to the failure of the Contractor to complete or comply with the provisions of this Agreement.
5. This Paragraph 44.0 will not, in any manner, restrict or limit the County's right to damages for any breach of this Agreement provided by law or this Section 44.2, and will not, in any manner, restrict or limit the County's right to terminate this Agreement as agreed to herein.

45.0 NONDISCRIMINATION AND AFFIRMATIVE ACTION

- 45.1 Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and must be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.
- 45.2 Contractor certifies to the County each of the following:
 1. That contractor has a written policy statement prohibiting discrimination in all phases of employment.
 2. That contractor periodically conducts a self-analysis or utilization analysis of its work force.
 3. That Contractor has a system for determining if its employment practices are discriminatory against protected groups.
 4. Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action, to include establishment of goals or timetables.
- 45.3 Contractor must take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action must include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 45.4 Contractor certifies and agrees that it will deal with its Subcontractors, bidders, or Vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.
- 45.5 Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies must comply with all applicable Federal and State laws and regulations to the end that no person will, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.
- 45.6 Contractor will allow County representatives access to the Contractor's employment records applicable to the Services provided hereunder during regular business hours to verify

compliance with the provisions of this Paragraph 45.0, when so requested by the County. County will endeavor to provide at least seven days' written notice of any such verification and will not unduly interfere with Contractor's operations in conducting its review. County's access to such records will be subject to applicable laws and any employment records will be kept confidential to the extent required by law.

- 45.7 If the County finds that any provisions of this Paragraph 45.0 have been violated, such violation will constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement. While the County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations will constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Agreement.
- 45.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Agreement, the County will, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Agreement.

46.0 NON EXCLUSIVITY

Nothing herein is intended nor will be construed as creating any exclusive arrangement with Contractor. This Agreement will not restrict County from acquiring similar, equal or like Services from other entities or sources.

47.0 NOTICE OF DELAYS

Except as otherwise provided under this Agreement, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party must, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

48.0 DISPUTE RESOLUTION PROCEDURE

Contractor and County agree to act promptly to mutually resolve any disputes which may arise with respect to this Agreement. All such disputes will be subject to the provisions of this Paragraph 48.0 (collectively, "Dispute Resolution Procedure"). Time is of the essence in the resolution of disputes.

- 48.1 Contractor and County agree that, the existence and details of a dispute notwithstanding, both parties will continue without delay their performance hereunder, except for any performance which either party, in its reasonable discretion, determines should be delayed as a result of such dispute and as necessary to resolve such dispute. If Contractor fails to continue without delay its performance hereunder which County, in its reasonable discretion, determines should not be delayed as a result of such dispute, then any additional costs which may be incurred by Contractor as a result of Contractor's failure to continue to so perform will be borne by Contractor, and Contractor will make no claim whatsoever against County for such costs.
- 48.2 Contractor must notify the County WO PM of any dispute between the County and the Contractor regarding the performance of services of a WO as stated in this Agreement. If the County WO PM

is not able to resolve the dispute within a reasonable time not to exceed ten (10) business days from the date of submission of the dispute, the County's ESMA Administrator, or his or her designee, will resolve the dispute. If the County's ESMA Administrator, or his or her designee, is not able to resolve the dispute within a reasonable time not to exceed ten (10) days from the date of submission of the dispute, the Director, ISD or his or her designee, will resolve the dispute. The Director, ISD or his or her designee will attempt to resolve the dispute within ten (10) days from the date of submission of the dispute; provided, however, the foregoing time to resolution may be extended by the mutual agreement of the parties.

- 48.3 In the event that at these levels, there is not a resolution of the dispute acceptable to both parties, then each party may assert its other rights and remedies provided under this Agreement and/or its rights and remedies as provided by law.
- 48.4 In the event a Dispute Resolution Procedure under this Paragraph 48.0 (collectively, "Dispute Resolution Procedure") is invoked due to either party's failure to perform or fulfill its obligations under a WO hereunder (hereinafter in this Paragraph 48.0 "WO Non-Performance"), and Contractor continues without delay its performance under such WO in accordance with Section 48.2, then, should the Dispute Resolution be resolved in favor of Contractor, County and Contractor must agree upon the cost of the party's such continued performance resulting from the WO Non-Performance. If it is found that Contractor did suffer cost for continuing to perform that resulted from the WO Non-Performance, then the parties will execute a WO Amendment in accordance with Section 15.3 ([Work Order Amendments](#)) for adjusting the WO amount by the agreed upon cost to Contractor.
- 48.5 All disputes utilizing this Dispute Resolution Procedure must be documented in writing by each party and must state the specifics of each alleged dispute and all actions taken. The parties must act in good faith to resolve all disputes. At all three levels described in this Paragraph 48.0 (collectively, "Dispute Resolution Procedure"), the efforts to resolve a dispute must be undertaken by conference between the parties' respective representatives, either orally, by face-to-face meeting or by telephone, or in writing by exchange of correspondence.
- 48.6 Notwithstanding any other provision of this Agreement, County's right to terminate this Agreement pursuant to Section 56.2 ([Termination for Convenience](#)), Section 56.3 ([Termination for Default](#)), Section 56.4 ([Termination for Improper Consideration](#)), Section 56.5 ([Termination for Insolvency](#)), or any other termination provision hereunder, and a party's right to seek injunctive relief to enforce the provisions of Paragraph 19.0 ([Proprietary Considerations](#)) and Section 14.7 ([Confidentiality and Security](#)), will not be subject to this Dispute Resolution Procedure.

49.0 NOTICES

All notices or demands required or permitted to be given or made under this Agreement must be in writing and will be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in Exhibit C ([County's Administration of Master Agreement](#)) and Exhibit D ([Contractor's Administration](#)). Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The Director, ISD or his or her designee will have the authority to issue all notices or demands required or permitted by the County under this Agreement.

50.0 PROHIBITION AGAINST INDUCEMENT OR PERSUASION

Notwithstanding the above, the Contractor and the County agree that, during the term of each WO and for a period of one (1) year thereafter, neither party will in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

51.0 PUBLIC RECORDS ACT

- 51.1 Any documents submitted by Contractor, all information obtained in connection with the County's right to audit and inspect Contractor's documents, books, and accounting records pursuant to Paragraph 53.0 ([Record Retention and Inspection/Audit Settlement](#)) of this Agreement, as well as those documents which were required to be submitted in response to the RFSQ used in the solicitation process for this Agreement, become the exclusive property of the County. All such documents become a matter of public record and may be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". County will use reasonable means to ensure that Contractor's "proprietary" and/or "confidential" items are safeguarded and held in confidence. County agrees not to reproduce, distribute or disclose to non-County entities any such "proprietary" and/or "confidential" items without the prior written consent of Contractor. The County will not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.
- 51.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of an SOQ marked "trade secret", "confidential", or "proprietary", the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

52.0 PUBLICITY

Contractor must not disclose any details in connection with this Agreement to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Contractor's need to identify its services and related clients to sustain itself, the County will not inhibit the Contractor from publishing its role under this Agreement within the following conditions:

1. Contractor must develop all publicity material in a professional manner; and
2. During the term of this Agreement, Contractor must not, and will not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the County's ESMA Administrator or his or her designee. The County will not unreasonably withhold written consent.

- 52.1 Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Agreement with the County, provided that the requirements of this Paragraph 52.0 will apply.

53.0 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

- 53.1 Contractor must maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. Contractor must also maintain accurate and complete employment and other records relating to its performance of this Agreement. Contractor agrees that the County, or its authorized representatives, will have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Agreement. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, will be kept and maintained by the Contractor and will be made available to the County during the term of this Agreement and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material must be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Contractor will pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location; provided, however, the foregoing payment obligation will not apply if Contractor can provide all such material to County via electronic means, obviating the need for travel.
- 53.2 In the event that an audit of the Contractor is conducted specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, then the Contractor must file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Agreement. The County will make a reasonable effort to maintain the confidentiality of such audit report(s).
- 53.3 Failure on the part of the Contractor to comply with any of the provisions of this Paragraph 53.0 will constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement.
- If, at any time during the term of this Agreement or within five (5) years after the expiration or termination of this Agreement, representatives of the County may conduct an audit of the Contractor regarding the work performed under this Agreement, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Contractor, then the difference will be either: a) repaid by the Contractor to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County, whether under this Agreement or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Contractor, then the difference will be paid to the Contractor by the County by cash payment, provided that in no event will the County's maximum obligation for this Agreement exceed the funds appropriated by the County for the purpose of this Agreement.

54.0 RECYCLED BOND PAPER

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Agreement.

55.0 SUBCONTRACTING

- 55.1 The requirements of this Agreement may be Subcontracted for any WO solely with the advance written approval of the County. Any attempt by the Contractor to Subcontract without the prior consent of the County may be deemed a material breach of this Agreement.
- 55.2 If the Contractor desires to Subcontract for WOs, the Contractor must provide the following information promptly at the County's request:

1. A comprehensive description of the work to be performed by the Subcontractor at the time of bid submission when responding to a WOS;
2. A draft copy of the proposed Subcontract; and
3. Other pertinent information and/or certifications requested by the County.

Contractor must indemnify and hold harmless County under and in accordance with Paragraph 40.0 ([Contractor Acts And/Or Omissions Indemnification](#)) with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were Consultant(s).

- 55.4 Contractor will remain fully responsible for all performances required of it under this Agreement and any resultant WO(s), including those that the Contractor has determined to Subcontract, notwithstanding the County's approval of the Contractor's proposed Subcontract.
- 55.5 County's consent to Subcontract will not waive the County's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this Agreement. Contractor is responsible to notify its Subcontractors of this County right prior to Subcontractors commencing performance under this Agreement.
- 55.6 County's ESMA Administrator is authorized to act for and on behalf of the County with respect to approval of any Subcontract and Subcontractor employees. County's ESMA Administrator will review Contractor's request to Subcontract and determine, in its reasonable discretion, whether or not to consent to such request on a case-by-case basis.
- 55.7 Contractor will be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the County's consent to Subcontract.
- 55.8 Contractor must obtain an executed Attachment B5 ([Contractor Acknowledgement, Confidentiality and Copyright Assignment Agreement](#)) as set forth in Exhibit B ([Sample Work Order](#)) for each Subcontractor approved to perform work under this Agreement; and certificates of insurance, which establish that the Subcontractor maintains all the programs of insurance required by the County from each approved Subcontractor. Contractor must ensure delivery of all such documents to ESMA Administrator as listed in Exhibit C ([County's Administration of Master Agreement](#)) before any Subcontractor employee may perform any work hereunder.

56.0 TERMINATION OF MASTER AGREEMENT

- 56.1 **Termination for Breach of Warranty to Maintain Compliance with County's Child Support Compliance Program:**

Failure of the Contractor to maintain compliance with the requirements as set forth in Paragraph 71.0 ([Contractor's Warranty of Adherence to County's Child Support Compliance Program](#)), will

constitute a default under this Agreement. Without limiting the rights and remedies available to the County under any other provision of this Agreement, failure of Contractor to cure such default within ninety (90) calendar days of written notice will be grounds upon which the County may terminate this Agreement pursuant to Section 56.3 ([Termination for Default](#)) and pursue debarment of Contractor, pursuant to [County Code Chapter 2.202](#).

56.2 Termination for Convenience:

1. County may terminate this Agreement, and any WO issued hereunder, in whole or in part, from time to time or permanently, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder will be effected by notice of termination to Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective will be no less than thirty (30) days after the notice is sent.
2. Upon receipt of a notice of termination and except as otherwise directed by the County, the Contractor must immediately:
 - a. Stop work under the WO or under this Agreement, as identified in such notice;
 - b. To the extent applicable, transfer title, and deliver to County all completed work and work in process; and
 - c. Complete performance of such part of the work as would not have been terminated by such notice.
3. All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Agreement or WO must be maintained by the Contractor in accordance with Paragraph 53.0 ([Record Retention and Inspection/Audit Settlement](#)).

56.3 Termination for Default:

1. County may, by written notice to the Contractor, terminate the whole or any part of this Agreement, if, in the judgment of Director, ISD, or his or her designee:
 - a. Contractor has materially breached this Agreement;
 - b. Contractor fails to maintain insurance pursuant to Paragraph 42.0 ([General Provisions for All Insurance Coverage](#)).
 - c. Contractor fails to make Consultant(s) available by the WO start date on three (3) separate occasions pursuant to Paragraph 5.0 ([Work Order Evaluation and Award Process](#)).
 - d. Contractor fails to provide the required forms to County completed and prior to commencing on a WO pursuant to Paragraph 5.0 [Work Order Evaluation and Award Process](#)).
 - e. Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Agreement or any WO issued hereunder; or

- f. Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements of any WO issued under this Agreement, or of any obligations of this Agreement and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.
2. If no cure period is specified in County's notice of termination for default pursuant to this Section 56.3, Contractor will have fifteen (15) days to cure prior to termination provided that nothing in this Subsection 56.3(2) will in any way limit or modify any rights of County or obligations of Contractor relating to timely performance by Contractor, as otherwise set forth in this Agreement. Notwithstanding the foregoing, the County will have the right to immediately terminate this Agreement for default where the Contractor has breached its confidentiality obligations.
3. In the event that the County terminates this Agreement in whole or in part as provided in this Section 56.3, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Contractor will be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services (collectively, "Cover Costs"). The County agrees that the amount of the Cover Costs for each WO will be limited to the Total Maximum Amount of the applicable WO. The Contractor will continue the performance of this Agreement to the extent not terminated under the provisions of this Paragraph 56.0.
4. Except with respect to defaults of any Subcontractor, the Contractor will not be liable for any such excess costs of the type identified in this Section 56.3, if its failure to perform this Agreement, including any WO issued hereunder, arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor will not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this Section 56.3, the terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) at any tier.
5. If, after the County has given notice of termination under the provisions of this Section 56.3, it is determined by the County that the Contractor was not in default under the provisions of this Section 56.3, or that the default was excusable under the provisions of this Section 56.3, the rights and obligations of the parties will be the same as if the notice of termination had been issued pursuant to Section 56.2 ([Termination for Convenience](#)).
6. The rights and remedies of the County provided in this Section 56.3, will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

56.4 Termination for Improper Consideration:

1. The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, amendment, or extension of this Agreement or the making of any determinations with respect to the Contractor's performance pursuant to this Agreement. In the event of such termination, the County will be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.
2. The Contractor must immediately report any attempt by a County officer, employee, or agent to solicit such improper consideration. The report must be made to the Los Angeles County Fraud Hotline at (800) 544-6861 or <https://fraud.lacounty.gov/>.
3. Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel or entertainment, or tangible gifts.

56.5 Termination for Insolvency:

1. The County may terminate this Agreement forthwith in the event of the occurrence of any of the following:
 - a. Insolvency of the Contractor. The Contractor will be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;
 - b. The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
 - c. The appointment of a Receiver or Trustee for the Contractor; or
 - d. The execution by the Contractor of a general assignment for the benefit of creditors.
2. The rights and remedies of the County provided in this Section 56.5, will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

56.6 Termination for Non-Adherence of County Lobbyist Ordinance:

Contractor, and each County Lobbyist or County Lobbying firm as defined in [County Code Section 2.160.010](#) retained by the Contractor, must fully comply with the County's Lobbyist Ordinance, [County Code Section 2.160.010](#). Failure on the part of the Contractor or any County Lobbyist or County Lobbying firm retained by the Contractor to fully comply with the County's Lobbyist Ordinance will constitute a material breach of this Agreement, upon which the County may in its sole discretion, immediately terminate or suspend this Agreement.

56.7 Termination for Non-Appropriation of Funds:

Notwithstanding any other provision of this Agreement, the County will not be obligated for the Contractor's performance hereunder or by any provision of this Agreement during any of the County's future Fiscal Years unless and until the County's Board of Supervisors appropriates funds for this Agreement in the County's Budget for each such future Fiscal Year. In the event

that funds are not appropriated for this Agreement, then this Agreement will terminate as of June 30 of the last Fiscal Year for which funds were appropriated. The County will notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.

56.8 Termination for Breach of Warranty to Maintain Compliance with County's Defaulted Property Tax Reduction Program:

Failure of Contractor to maintain compliance with the requirements as set forth in Paragraph 25.0 ([Contractor's Warranty of Compliance with County's Defaulted Property Tax Reduction Program](#)) will constitute default under this contract. Without limiting the rights and remedies available to County under any other provision of this contract, failure of Contractor to cure such default within ten (10) days of notice will be grounds upon which County may terminate this contract and/or pursue debarment of Contractor, pursuant to County Code Chapter 2.206.

56.9 Effect of Termination:

1. In the event County terminates this Contract in whole or in part as provided hereunder or upon the expiration of the Contract, as applicable, then, unless otherwise specified by County in writing:
 - a. Contractor must continue the performance of this Contract to the extent not terminated.
 - b. Contractor must cease to perform the Services being terminated on the date and to the extent specified in such notice and provide to County all completed Services and/or Deliverables and Services and/or Deliverables in progress, in a media reasonably requested by County, if applicable.
 - c. Where such termination is not for any default or breach by Contractor, County will pay to Contractor all sums due and payable to Contractor for Services properly performed through the effective date of such expiration or termination.
 - d. Contractor must return to County, all monies paid in advance by County, yet unearned by Contractor, including any prepaid fees, no later than thirty (30) days after the date of County's termination of any (or all) of the WO(s) under this Contract and/or the Contract, whether such termination is for convenience or any default or breach hereunder.
 - e. Contractor must promptly return to County any and all of the County's Confidential Information that relates to the portion of the Contract or Services terminated by County in a media reasonably requested by County.
2. Expiration or termination of this Contract for any reason will not release either party from any liabilities or obligations as set forth in this Contract which (i) the parties have expressly agreed in writing will survive any such expiration or termination, or (ii) remain to be performed or by their nature would be intended to be applicable following any such expiration or termination.

57.0 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")

57.1 Protected Health Information (PHI):

1. The County is subject to the Administrative Simplification requirements and prohibitions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules"). Under this Agreement, the Contractor provides services to the County and, in doing so, the Contractor may have access to, may receive, and/or may maintain Protected Health Information (PHI) as defined in Exhibit G ([ESMA HIPAA Business Associate Agreement](#)) in order to provide those Services. Where the ESMA Administrator determines a WO requires the execution of Exhibit G, Contractor and County will execute Exhibit G before commencing work under such WO. Contractor understands and agrees that the submission of a response to a WOS requiring the execution of Exhibit G constitutes Contractor's acknowledgement and acceptance of all the terms and conditions of Exhibit G, if qualified and awarded a resultant WO. Contractors who cannot execute Exhibit may not submit a response to the applicable WOS as Contractor's failure to execute Exhibit G will be deemed a material breach of the Agreement.
2. Should County need to amend Exhibit G as necessary to comply with the requirements of HIPAA, Exhibit G will be deemed to be so amended, and Contractor agrees to be obligated by such deemed amended Exhibit G, until such time as the parties enter into an Amendment to the Agreement in accordance with Section 15.2 ([Change Notices to Master Agreement](#)) to actually update Exhibit G to reflect such deemed amendments.

57.2 Personally Identifiable Information (PII):

Without limiting Paragraph 20.0 ([Compliance with Applicable Law](#)), Contractor must comply with all applicable Federal, State and local laws, rules, regulations, ordinances, policies, guidelines and directives (in this Section 57.2, "Laws") relating to incidents which compromise, are reasonably believed to have compromised, or may potentially compromise, the security, confidentiality and/or integrity, or availability of any Confidential Information including without limitation, California Civil Code Sections 1798.82 and 1798.29. Under no circumstances will this Section 57.2, be deemed to confer upon County responsibility for Contractor's compliance with all applicable Laws.

58.0 COMPLIANCE WITH COUNTY'S JURY SERVICE PROGRAM

58.1 Jury Service Program:

This Agreement is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in [Sections 2.203.010 through 2.203.090 of the Los Angeles County Code](#).

58.2 Written Employee Jury Service Policy:

1. Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not a "Contractor" as defined under [Jury Service Program \(Section 2.203.020 of the County Code\)](#) or that Contractor qualifies for an exception to the [Jury Service Program \(Section 2.203.070 of the County Code\)](#), Contractor must have and adhere to a written policy that provides that its Employees must receive from the Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor

or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this Paragraph 58.0, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a Subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-months period under one or more County contracts or Subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full-time" means forty (40) hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of ninety (90) days or less within a 12-months period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any Subcontractor to perform services for the County under the Agreement, the Subcontractor must also be subject to the provisions of this Paragraph 58.0. The provisions of this Paragraph 58.0 must be inserted into any such Subcontract agreement and a copy of the Jury Service Program must be attached to the Subcontract Agreement.
3. If Contractor is not required to comply with the Jury Service Program when the Agreement commences, Contractor will have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor must immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Jury Service Program. In either event, Contractor must immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Agreement and at its sole discretion, that Contractor demonstrate to the County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.
4. Contractor's violation of this Paragraph 58.0 of the Agreement may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole discretion, terminate the Agreement and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

59.0 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF OR ARE ON A COUNTY RE-EMPLOYMENT LIST

Should the Contractor require additional or replacement personnel after the effective date of this Agreement to perform the services set forth herein, the Contractor must give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Agreement.

60.0 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

- 60.1. Should the Contractor require additional or replacement personnel after the Effective Date of this Agreement, the Contractor must give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for

Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's Minimum Qualifications for the open position. For this purpose, consideration will mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor.

Contractors must report all job openings with job requirements to: GAINGROW@DPSS.LACOUNTY.GOV and BSERVICES@WDACS.LACOUNTY.GOV and DPSS will refer qualified GAIN/GROW job candidates.

- 60.2. In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees must be given first priority.

61.0 LOCAL SMALL BUSINESS ENTERPRISE (LSBE) PREFERENCE PROGRAM

- 61.1 This Agreement, subsequent WOSs, and resultant WO(s), if any, are subject to the provisions of the County's ordinance entitled LSBE Preference Program, as codified in [Chapter 2.204 of the Los Angeles County Code](#).
- 61.2 Contractor will not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a LSBE.
- 61.3 Contractor will not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a LSBE.
- 61.4 If Contractor has obtained certification as a LSBE by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this Agreement and/or WO(s) to which it would not otherwise have been entitled, will:
1. Pay to the County any difference between the WO amount and what the County's costs would have been if the WO had been properly awarded;
 2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the WO; and
 3. Be subject to the provisions of [Chapter 2.202 of the Los Angeles County Code](#) (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties will also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the State of California and the Department of Consumer and Business Affairs of this information prior to responding to a WOS or accepting a WO award.

62.0 DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PREFERENCE PROGRAM

- 62.1 This Agreement, subsequent WOSs, and resultant WO(s), if any, are subject to the provisions of the County's ordinance entitled DVBE Preference Program, as codified in Chapter 2.211 of the Los Angeles County Code.

- 62.2 Contractor will not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a DVBE.
- 62.3 Contractor will not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a DVBE.
- 62.4 If Contractor has obtained certification as a DVBE by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this Agreement and/or WO(s) to which it would not otherwise have been entitled, will:
1. Pay to the County any difference between the WO amount and what the County's costs would have been if the WO had been properly awarded;
 2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the WO; and
 3. Be subject to the provisions of [Chapter 2.202 of the Los Angeles County Code](#) (Determinations of Contractor Non-responsibility and Contractor Debarment).

Notwithstanding any other remedies in this Agreement, the above penalties will also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the State and the Department of Consumer and Business Affairs of this information prior to responding to a solicitation or accepting a Master Agreement award.

63.0 SOCIAL ENTERPRISE (SE) PREFERENCE PROGRAM

- 63.1 This Agreement, subsequent WOSs and resultant WOs, if any, are subject to the provisions of the County's ordinance entitled SE Preference Program, as codified in [Chapter 2.205 of the Los Angeles County Code](#).
- 63.2 Contractor will not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a SE.
- 63.3 Contractor will not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a SE.
- 63.4 If Contractor has obtained County certification as a SE by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this Agreement or WO(s) to which it would not otherwise have been entitled, will:
1. Pay to the County any difference between the WO amount and what the County's costs would have been if the WO had been properly awarded;

2. In addition to the amount described in subdivision 1, be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the WO; and
3. Be subject to the provisions of [Chapter 2.202 of the Los Angeles County Code](#) (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties will also apply to any entity that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the Department of Consumer and Business Affairs of this information prior to responding to a WOS or accepting a WO award.

64.0 TIME OFF FOR VOTING

The Contractor must notify its employees, and must require each Subcontractor to notify and provide to its employees, information regarding the time off for voting law ([Elections Code Section 14000](#)). Not less than ten (10) days before every statewide election, every Contractor and Subcontractors must keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of [Section 14000](#).

65.0 LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS AND CERTIFICATES

Contractor must obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations and certificates required by all Federal, State, and local laws, ordinances, rules, regulations, which are required for Contractor to perform Services under this Agreement. Contractor must further ensure that all of its officers, employees, agents and Subcontractors who perform Services hereunder, must obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations and certificates which are required for their performance hereunder. Upon County's request, a copy of each such license, permit, registration, accreditation and certificate required by all applicable Federal, State, and local laws, ordinances, rules, regulations, guidelines and directives must be provided, in duplicate, to the Director, ISD listed in Exhibit C ([County's Administration of Master Agreement](#)).

66.0 USE OF FEDERAL FUNDS

If any Federal funds are to be used to pay portion for any of Contractor's work under this Agreement, the County will notify Contractor in writing in advance of issuing the respective WO for such Services and give Contractor the opportunity to review all certification and disclosure requirements prescribed by Section 319 of Public law 101-121 (31 United States Code Section 1352) and any implementing regulations so that Contractor can determine whether to accept such Federally funded WO. If such WO is accepted, Contractor must ensure that each of its Subcontractors receiving funds provided under this Agreement also fully complies with all such certification and disclosure requirements.

67.0 FEDERAL ACCESS TO RECORDS

If, and to the extent that Section 1861(v)(1)(i) of the Social Security Act (42 United States Code Section 1395x(v)(1)(i) is applicable, Contractor agrees that for a period of three (3) years following the furnishing of Services under the respective WO, Contractor must maintain and make available, upon written request, to the Secretary of the United States Department of

Health and Human Services or the Comptroller General of the United States or to any of their authorized representatives, the contracts, books, documents and records of Contractor which are necessary to verify the nature and extent of the costs Contractor charged for the Services provided thereunder. Furthermore, if Contractor carries out any of the Services provided hereunder through any Subcontract with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such Subcontract will provide for such access to the Subcontract, books, documents, and records of the Subcontractor

68.0 DATA DESTRUCTION

If Contractor maintains, processes, or stores County's data and/or information, implied or expressed, Contractor will have the sole responsibility to certify that the data and information has been appropriately destroyed consistent with the National Institute of Standards and Technology (NIST) Special Publication SP 800-88 titled *Guidelines for Media Sanitization*. (Available at: <http://csrc.nist.gov/publications/PubsDrafts.html#SP-800-88 Rev.%201>)

The data and/or information may be stored on purchased, leased, or rented electronic storage equipment (e.g., printers, hard drives) and electronic devices (e.g., servers, workstations) that are geographically located within the County, or external to the County's boundaries. The County must receive within ten (10) business days, a signed document from Contractor that certifies and validates the data and information were placed in one or more of the following stored states: unusable, unreadable, and indecipherable. Contractor must certify that any County data stored on purchased, leased, or rented electronic storage equipment and electronic devices, including, but not limited to printers, hard drives, servers, and/or workstations are destroyed consistent with the current National Institute of Standard and Technology (NIST) Special Publication SP-800-88, Guidelines for Media Sanitization. Contractor must provide County with written certification, within ten (10) business days of removal of any electronic storage equipment and devices that validates that any and all County data was destroyed and is unusable, unreadable, and/or undecipherable.

69.0 INFORMATION SECURITY

69.1 System Security:

Contractor must provide all work utilizing security technologies and techniques in accordance with Contractor's standard practices and applicable County security policies, procedures and requirements provided by County to Contractor as set forth in the applicable WO, including those relating to the prevention and detection of fraud or other inappropriate use or access of systems and networks. Without limiting the generality of the foregoing and should the applicable WO so specify, Contractor must implement and use network management and maintenance applications and tools and fraud prevention and detection and encryption technologies designed to prevent the introduction of any Disabling Device described in Paragraph 9.0 ([Work Order Warranty\(ies\)](#)) into any County system.

69.2 Data Security:

County is responsible for (i) any data and the content of any database that County makes available to Contractor in connection with a WO under this Agreement, (ii) the selection and implementation of procedures and controls regarding access, security, encryption, use and transmission of such data, and (iii) backup and recovery of such database and any stored data.

Contractor's responsibilities regarding such data or database, including any confidentiality and security obligations, that are specified in the WO applicable to the particular transaction will govern and supersede the provisions of this Paragraph 69.0. Contractor hereby acknowledges the right of privacy of all individuals as to whom there exists any County data. Contractor must protect, secure and keep confidential all County data in compliance with applicable security and privacy laws at the federal, state and local levels specified in the WO, including without limitation applicable industry standards for the protection and safeguarding of confidential data. Further, Contractor must take all reasonable actions necessary or advisable as specified in the WO, for the protection of all system data in its possession, custody or control from loss or damage from malicious intent or unauthorized access. Contractor will not use any system data for any purpose or reason other than to fulfill its obligations under this Agreement.

69.3 Security Incident:

A "Security Incident" will have the meaning given to such term in 45 C.F.R. § 164.304.

Contractor must make an immediate telephonic report, and subsequently via written letter to the County's ESMA administrator, upon discovery of any non-permitted use or disclosure of County Confidential Information or Security Incident to (562) 940-3335 that minimally includes:

- a. A brief description of what happened, including the date of the non-permitted use or disclosure or Security Incident and the date of discovery of the non-permitted use or disclosure or Security Incident if known;
- b. The number of Individuals whose Confidential Information is involved;

A description of the specific type of information involved in the non-permitted use or disclosure or Security Incident Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved); and

- c. The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted use or disclosure of County Confidential Information or Security Incident.

69.4 Disabling Device Remedies:

If any materials developed and provided by Contractor introduce a Disabling Device into County's system environment as a direct result of Contractor's failure to use virus detection software or take such other measures as specified in the applicable WO, then Contractor's sole obligation and County's exclusive remedy is that Contractor will use commercially reasonable efforts to assist County in installing a replacement copy of the materials, and, if the Disabling Device causes a loss of data in County's system, to assist County in restoring to County's system backed-up data provided by County. Contractor's time for these efforts arising from Contractor's material breach will not be billable to County. The provisions of this Paragraph 69.0 will survive the expiration of termination of this Agreement.

69.5 Data Encryption Requirements:

Contractor and Subcontractors that electronically transmit or store County personal information (PI), protected health information (PHI) and/or medical information (MI) must comply with the encryption standards set forth below. PI is defined in California Civil Code

Section 1798.29(g). PHI is defined in Health Insurance Portability and Accountability Act (HIPAA) of 1996, and implementing regulations. MI is defined in California Civil Code Section 56.05(j).

- a. **Stored Data:** Contractors' and Subcontractors' workstations and portable devices (e.g., mobile, wearables, tablets, thumb drives, external hard drives) require encryption (i.e., software and/or hardware) in accordance with: (a) Federal Information Processing Standard Publication (FIPS) 140-2; (b) National Institute of Standards and Technology (NIST) Special Publication 800-57 Recommendation for Key Management – Part 1: General (Revision 3); (c) NIST Special Publication 800-57 Recommendation for Key Management – Part 2: Best Practices for Key Management Organization; and (d) NIST Special Publication 800-111 Guide to Storage Encryption Technologies for End User Devices. Advanced Encryption Standard (AES) with cipher strength of 256-bit is minimally required.
- b. **Transmitted Data:** All transmitted (e.g., network) County PI, PHI and/or MI require encryption in accordance with: (a) NIST Special Publication 800-52 Guidelines for the Selection and Use of Transport Layer Security Implementations; and (b) NIST Special Publication 800-57 Recommendation for Key Management – Part 3: Application-Specific Key Management Guidance. Secure Sockets Layer (SSL) is minimally required with minimum cipher strength of 128-bit.
- c. **Certification:** The County must receive within ten (10) business days of its request, a certification from Contractor (for itself and any Subcontractors) that certifies and validates compliance with the encryption standards set forth above. In addition, Contractor must maintain a copy of any validation/attestation reports that its data encryption product(s) generate and such reports must be subject to audit in accordance with the Contract. Failure on the part of the Contractor to comply with any of the provisions of this Section 69.5 will constitute a material breach of this Contract upon which the County may terminate or suspend this Contract.

70.0 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

Contractor must notify its employees, and must require each Subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice must be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015 (<https://www.irs.gov/pub/irs-pdf/n1015.pdf>).

71.0 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

- 71.1 Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Purchase Order or Master Agreement are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.
- 71.2 As required by the [County's Child Support Compliance Program \(County Code Chapter 2.200\)](#) and without limiting the Contractor's duty under this Agreement to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and will during the term of this Agreement maintain compliance and will during the term of this ESMA maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section

1088.5, and will implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

72.0 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "[Safely Surrendered Baby Law](https://lacounty.gov/residents/family-services/child-safety/safe-surrender/)" poster as set forth in Exhibit E, in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. Information and posters for printing are available at: <https://lacounty.gov/residents/family-services/child-safety/safe-surrender/>.

73.0 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

Contractor must notify and provide to its employees, and must require each Subcontractor to notify and provide to its employees, information regarding the Safely Surrendered Baby Law,

its implementation in Los Angeles County, and where and how to safely surrender a baby. The information is set forth in Exhibit E (Safely Surrendered Baby Law) of this Agreement. Additional information is available at:

<https://lacounty.gov/residents/family-services/child-safety/safe-surrender/>.

74.0 CAPTIONS AND PARAGRAPH HEADINGS

Captions and Paragraph headings used in this Agreement are for convenience only and are not a part of this Agreement and will not be used in construing this Agreement.

75.0 VALIDITY AND SEVERABILITY

75.1 Validity:

If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances will not be affected thereby.

75.2 Severability:

In the event that any provision herein contained is held to be invalid, void or illegal by any court of competent jurisdiction, the same will be deemed severable from the remainder of this Agreement, if practicable, and will in no way affect, impair or invalidate any other provision contained herein. If any such provision will be deemed invalid to its scope or breadth, such provision will be deemed valid to the extent of the scope or breadth permitted by law.

75.3 Waiver:

No waiver by the County of any breach of any provision of this Agreement will constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Agreement will not be construed as a waiver thereof.

The rights and remedies as set forth in this Section 75.3, will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

76.0 SURVIVAL

In addition to any terms and conditions of this Agreement that expressly survive the extension or termination of this Agreement by their terms, the following provisions shall survive the expiration or termination of this Agreement for any reason: Paragraph 2.0 ([Definitions](#)), Section 14.7 ([Confidentiality and Security](#)), Paragraph 19.0 ([Proprietary Considerations](#)), Paragraph 37.0 ([Governing Law, Jurisdiction, and Venue](#)), Paragraph 38.0 ([Independent Contractor Status](#)), Paragraph 39.0 ([Intellectual Property Indemnification](#)), Paragraph 40.0 ([Contractors Acts And/Or Omissions Indemnification](#)), Paragraph 41.0 ([Limitation of Liability](#)), Section 42.10 ([Claims Made Coverage](#)), Paragraph 51.0 ([Public Records Act](#)), Paragraph 53.0 ([Record Retention and Inspection/Audit Settlement](#)), Section 56.9 ([Effect of Termination](#)), Paragraph 67.0 ([Federal Access to Records](#)), Paragraph 68.0 ([Data Destruction](#)), Paragraph 69.0 ([Information Security](#)), Paragraph 76.0 ([Survival](#)) and Attachment B5 ([Contractor Acknowledgment, Confidentiality, and Copyright Assignment Agreement](#)) as set forth in Exhibit B ([Sample Work Order](#)).

77.0 COMPLIANCE WITH COUNTY'S ZERO TOLERANCE POLICY ON HUMAN TRAFFICKING

The Contractor acknowledges that the County has established a Zero Tolerance Policy on Human Trafficking prohibiting Contractors from engaging in human trafficking. If a Contractor or member of Contractor's staff is convicted of a human trafficking offense, the County will require that the Contractor or member of Contractor's staff be removed immediately from performing services under the Agreement. County will not be under any obligation to disclose confidential information regarding the offenses other than those required by law.

Disqualification of any member of Contractor's staff pursuant to this Paragraph 77.0 will not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Agreement.

78.0 COMPLIANCE WITH FAIR CHANCE EMPLOYMENT PRACTICES

Contractor, and its Subcontractors, must comply with fair chance employment hiring practices as set forth in [California Government Code Section 12952](#). Contractor's violation of this Paragraph 78.0 of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract.

79.0 COMPLIANCE WITH THE COUNTY POLICY OF EQUITY

The Contractor acknowledges that the County takes its commitment to preserving the dignity and professionalism of the workplace very seriously, as set forth in the County Policy of Equity (CPOE) (<https://ceop.lacounty.gov/>). The Contractor further acknowledges that the County strives to provide a workplace free from discrimination, harassment, retaliation and inappropriate conduct based on a protected characteristic, and which may violate CPOE. The Contractor, its employees and Subcontractors acknowledge and certify receive and understanding of the CPOE. Failure of the Contractor, its employees or its Subcontractors to uphold the County's expectations of a workplace free from harassment and discrimination, including inappropriate conduct based on a protected characteristic, may subject the Contractor to termination of contractual agreements as well as civil liability.

80.0 PROHIBITION FROM PARTICIPATION IN FUTURE SOLICITATION(S)

A Proposer, or a Contractor or its subsidiary or Subcontractor ("Proposer/Contractor"), is prohibited from submitting a bid or proposal in a County solicitation if the Proposer/Contractor has provided advice or consultation for the solicitation. A Proposer/Contractor is also prohibited from submitting a bid or proposal in a County solicitation if the Proposer/Contractor has developed or prepared any of the solicitation materials on behalf of the County. A violation of this provision will result in the disqualification of the Proposer/Contractor from participation in the County solicitation or the termination or cancellation of any resultant County contract.

81.0 INJURY AND ILLNESS PREVENTION PROGRAM (IIPP)

Contractor will be required to comply with the State of California's Cal OSHA's regulations. Section 3203 of Title 8 in the California Code of Regulations requires all California employers to have a written effective Injury and Illness Prevention Program (IIPP) that addresses hazards pertaining to the particular workplace covered by the program.

82.0 COVID-19 VACCINATIONS OF COUNTY CONTRACTOR PERSONNEL

1. At Contractor's sole cost, Contractor must comply with [Chapter 2.212](#) (COVID-19 Vaccinations of County Contractor Personnel) of County Code Title 2 - Administration, Division 4.

All employees of Contractor and persons working on its behalf, including but not limited to, Subcontractors of any tier (collectively, "Contractor Personnel"), must be fully vaccinated against the novel coronavirus 2019 ("COVID-19") prior to (1) interacting in person with County employees, interns, volunteers, and commissioners ("County workforce members"), (2) working on County owned or controlled property while performing services under this Contract, and/or (3) coming into contact with the public while performing services under this Contract (collectively, "In-Person Services").

2. Contractor Personnel are considered "fully vaccinated" against COVID-19 two (2) weeks or more after they have received (1) the second dose in a 2-dose COVID-19 vaccine series (e.g. Pfizer-BioNTech or Moderna), (2) a single-dose COVID-19 vaccine (e.g. Johnson and Johnson [J&J]/Janssen), or (3) the final dose of any COVID-19 vaccine authorized by the World Health Organization ("WHO").
3. Prior to assigning Contractor Personnel to perform In-Person Services, Contractor must obtain proof that such Contractor Personnel have been fully vaccinated by confirming Contractor Personnel is vaccinated through any of the following documentation: (1) official COVID-19 Vaccination Record Card (issued by the Department of Health and Human Services, CDC or WHO Yellow Card), which includes the name of the person vaccinated, type of vaccine provided, and date of the last dose administered ("Vaccination Record Card"); (2) copy (including a photographic copy) of a Vaccination Record Card; (3) Documentation of vaccination from a licensed medical provider; (4) a digital record that includes a quick response ("QR") code that when scanned by a SMART HealthCard reader displays to the reader client name, date of birth, vaccine dates, and vaccine type, and the QR code confirms the vaccine record as an official record of the State of California; or (5) documentation of vaccination from Contractors who follow the CDPH vaccination records guidelines and standards. Contractor must also provide written notice to County before the start of work

under this Contract that its Contractor Personnel are in compliance with the requirements of this Paragraph 82.0. Contractor must retain such proof of vaccination for the document retention period as set forth in this Contract, and must provide such records to the County for audit purposes, when required by County.

4. Contractor will evaluate any medical or sincerely held religious exemption request of its Contractor Personnel, as required by law. If Contractor has determined that Contractor Personnel is exempt pursuant to a medical or sincerely held religious reason, the Contractor must also maintain records of the Contractor Personnel's testing results. The Contractor must provide such records to the County for audit purposes, when required by County. The unvaccinated exempt Contractor Personnel must meet the following requirements prior to (1) interacting in person with County workforce members, (2) working on County owned or controlled property while performing services under this Contract, and/or (3) coming into contact with the public while performing services under this Contract:
 - a. Test for COVID-19 with either a polymerase chain reaction (PCR) or antigen test has an Emergency Use Authorization (EUA) by the FDA or is operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services. Testing must occur at least weekly, or more frequently as required by County or other applicable law, regulation or order.
 - b. Wear a mask that is consistent with CDC recommendations at all times while on County controlled or owned property, and while engaging with members of the public and County workforce members.
 - c. Engage in proper physical distancing, as determined by the applicable County department that the Contract is with.
5. In addition to complying with the requirements of this Paragraph 82.0, Contractor must also comply with all other applicable local, departmental, State, and federal laws, regulations and requirements for COVID-19. A completed Attachment B4 ([COVID-19 Certification of Compliance](#)) as set forth in Exhibit B ([Sample Work Order](#)) is a required part of any Agreement with the County.

83.0 PREFERENCE PROGRAM ENTITY (PPE) UTILIZATION REPORT

Qualified Contractors awarded Work Orders under this Master Agreement must submit a quarterly PPE Utilization Report. The report must include, but not limited to, a description of the work being performed by the PPE and the total amount paid to the PPE in the three months preceding the report date. The quarterly report must be submitted electronically to ESMAAdmin@isd.lacounty.gov.

SIGNATURES ON FOLLOWING PAGE

**AUTHORIZATION OF THE ENTERPRISE SERVICES
MASTER AGREEMENT (ESMA)**

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be executed by the County's Director, Internal Services Department or his or her designee, and approved by County Counsel, and Contractor has caused this Agreement to be executed in its behalf by its duly authorized officer.

By: _____
CONTRACTOR

SIGNED: _____

PRINTED: _____

TITLE: _____

COUNTY OF LOS ANGELES

By: _____
SELWYN HOLLINS
DIRECTOR
INTERNAL SERVICES DEPARTMENT

DATE: _____

APPROVED AS TO FORM:

DAWYN R. HARRISON
INTERIM COUNTY COUNSEL

By: _____
DEPUTY COUNTY COUNSEL

EXHIBIT A THROUGH EXHIBIT H

TO

APPENDIX D – ENTERPRISE SERVICES MASTER AGREEMENT (ESMA)



FOR

ENTERPRISE INFORMATION TECHNOLOGY SERVICES

ESMA EXHIBITS

EXHIBIT A: ESMA SERVICE CATEGORIES:

CATEGORY 1: IT STRATEGIC PLANNING AND ENTERPRISE ARCHITECTURE PLANNING SERVICES

CATEGORY 2: PROJECT MANAGEMENT AND GOVERNANCE PLANNING SERVICES

CATEGORY 3: REQUIREMENTS ANALYSIS AND SOLICITATION DEVELOPMENT SERVICES

CATEGORY 4: TECHNICAL CONSULTING SERVICES

CATEGORY 5: INFORMATION SECURITY RISK, MITIGATION AND FORENSICS CONSULTING SERVICES

CATEGORY 6: INFORMATION MANAGEMENT AND IT TRANSFORMATION SERVICES

EXHIBIT B: SAMPLE WORK ORDER (FIXED PRICE PER DELIVERABLE (FP/D)) AND (TIME AND MATERIALS PER DELIVERABLE (T&M/D)) AND ATTACHMENTS:

- Attachment to Sample Work Order
 - ✓ Attachment B1: Sample Statement of Work
- Forms required prior to the commencement of each Work Order
 - ✓ Attachment B2: Certification of Employee Status
 - ✓ Attachment B3: Certification of No Conflict of Interest
 - ✓ Attachment B4: COVID-19 Vaccination Certification of Compliance
 - ✓ Attachment B5: Contractor Acknowledgement, Confidentiality and Copyright Assignment Agreement*

**Any Work Order that designates Deliverables to be County IP shall require execution of a new Contractor Acknowledgement, Confidentiality and Copyright Assignment Agreement*

EXHIBIT C: COUNTY'S ADMINISTRATION OF MASTER AGREEMENT

EXHIBIT D: CONTRACTOR'S ADMINISTRATION

EXHIBIT E: SAFELY SURRENDERED BABY LAW

EXHIBIT F: ESMA RISK SCHEDULE

EXHIBIT G: BUSINESS ASSOCIATE AGREEMENT UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1966 ("HIPAA") ("ESMA HIPAA BUSINESS ASSOCIATE AGREEMENT")

EXHIBIT H: EVALUATION PROCESS FOR CERTAIN WORK ORDER SOLICITATIONS

ENTERPRISE SERVICES MASTER AGREEMENT



ESMA SERVICE CATEGORIES

FOR

ENTERPRISE INFORMATION TECHNOLOGY SERVICES

ESMA SERVICE CATEGORIES

CATEGORY 1: IT Strategic Planning and Enterprise Architecture Planning Services

CATEGORY 2: Project Management and Governance Planning Services

CATEGORY 3: Requirements Analysis and Solicitation Development Services

CATEGORY 4: Technical Consulting Services:

Subcategory 4a: Enterprise Content Management, Analytics and Portal Services

Subcategory 4b: Electronic Forms, Workflow, Analytics and Portal Services

Subcategory 4c: Workplace Collaboration and Analytics Collaboration Services

Subcategory 4d: Analytics, Business Intelligence, Visualization and Reporting Services

Subcategory 4e: Master Data and Identity Management Services

Subcategory 4f: Geospatial Information Services

Subcategory 4g: Infrastructure, Programming, Middleware and Operating System Services

Subcategory 4h: Financial, Materials, Personnel, Timekeeping, Payroll, Customer Relationship and Facility Services

Subcategory 4i: Document Workflow and Imaging Services

Subcategory 4j: Commercial Cloud and DC1 Data Center Services

Subcategory 4k: Network, Application, Hardware and Systems Services

Subcategory 4l: System Re-engineering Services

Subcategory 4m: Commercial/Government Cloud Managed Services, Software as a Service (SaaS), Platform as a Service (PaaS), Infrastructure as a Service (IaaS), and Database as a Service (DBaaS) Services

CATEGORY 5: Information Security Risk, Mitigation and Forensics Consulting Services:

Subcategory 5a: Information Security Risk Assessments and Compliance Services

Subcategory 5b: Incident Response, Breach Mitigation and Notification Services

Subcategory 5c: Computer Forensics, eDiscovery and Data Analytics Services

CATEGORY 6: Information Management and IT Transformation Services:

Subcategory 6a: Develop enterprise information management, technologies and security strategies, architectures and roadmaps Services

Subcategory 6b: Develop and implement enterprise data management solutions Services

Subcategory 6c: Develop enterprise data integration strategies and implementation Services

Subcategory 6d: Develop enterprise data store platform architecture and strategies Services

Subcategory 6e: Develop and implement enterprise data analytics solutions Services

Subcategory 6f: Develop enterprise IT Transformation strategies and implementation Services

The ESMA is designed to be a master agreement utilizing a Work Order (WO) structure to engage Vendor or consulting companies to provide a project team to perform work for County departments. It is the County department's responsibility to provide a set of Requirements and a SOW along with the Tasks, Subtasks, Deliverables, Acceptance Criteria, Milestones, and proposed Payment Schedules for the Vendor or consulting companies to bid on competitively.

It is the Vendor or consulting companies' responsibility to carefully review the entire set of WO documents to provide a responsible bid.

It is the County department's responsibility to encumber funds for the WO, approve deliverables and to pay Vendor invoices.

The ESMA is not designed for Vendor or consulting companies to provide individual consultants for County departments to utilize on an ongoing basis to augment departmental information technology staff. County departments will only be allowed to use the ESMA for project-specific engagements that have definitive time parameters, budgets, and measurable deliverables.

The six (6) Service Categories (as listed above) are an initial set of categories available for County departments to utilize. The RFSQ that will result in the issuance of individual Master Agreements to each Qualified Contractor will be "Open Continuously" throughout the life of the ESMA, allowing the Director, ISD to augment the existing categories and/or to develop new categories as new technologies become relevant or as new County departmental needs arise.

This will also allow Vendor and consulting companies to submit Statements of Qualifications (SOQs) for new and existing Service Categories at any time during the effective period of the ESMA.

For any of the six (6) categories described herein, the following Los Angeles County Code restriction applies:

Note that Vendors that perform or have performed requirements analysis and assist or have assisted County departments in preparing an RFP, Statement of Requirements or Statement of Work pursuant to a Work Order will be precluded from bidding or submitting proposals or responding to the resultant solicitation.

(Board policy 5.090 Consultant Independence: https://library.municode.com/ca/la_county_-_bos/codes/board_policy?nodeId=CH5COPU_5.090COIN).

CATEGORY 1: STRATEGIC PLANNING AND ENTERPRISE ARCHITECTURE PLANNING SERVICES

This Service Category relates to consulting services for the following:

- Develop IT strategic plans, application strategies, architectures and roadmaps;
- Evaluate technologies and conduct benchmarks for IT services, (e.g., enterprise content management, digital government, information management, strategic sourcing, data center services, architecture, and information security);
- Conduct IT assessments, portfolio analysis, technology evaluations, and IT capital planning to identify and recommend application rationalization, architecture, consolidation, modernization and retirement; and
- Develop and conduct technology reviews, concept projects, and training services to support IT application design, development, architecture, implementation and management services.

MINIMUM QUALIFICATIONS FOR CATEGORY 1

To qualify for this Service Category, interested Vendors **must** submit a Vendor Qualifications (SOQ Form 2) provided in Appendix A (Required SOQ Forms) describing:

1. Overall qualifications and experience in performing the services described in this Service Category; and
2. A minimum of three (3) reference engagements with a combined total time of two (2) continuous years within the most recent three (3) years. Each referenced engagements **must** demonstrate the experience and qualifications in providing services with budgets of \$250,000 or more to include a minimum of two (2) of the following four (4) areas:
 - a. Development of IT strategic plans, IT architectures and roadmaps that may include conducting assessments of current IT architectures to formulate recommendations, strategies and roadmaps.
 - b. Performing benchmarks for IT services, including service levels and costs.
 - c. Conducting technology evaluations and developing strategies, recommendations and roadmaps for at least one (1) of the following areas: enterprise content management, portal and web content management, information management, strategic sourcing and information security.
 - d. Performing IT assessment, portfolio analysis, and application modernization strategies.
3. For **each** referenced engagement or project, Vendor **must** on SOQ Form 2:
 - Describe the IT strategic plan, technology review, technology evaluation and/or benchmarks completed.

CATEGORY 2: PROJECT MANAGEMENT AND GOVERNANCE PLANNING SERVICES

This Service Category includes enterprise project management, change management, governance program, and quality assurance, and independent validation and verification, training, risk management consulting services, based on industry standard practices, (e.g., Project Management Institute (PMI)), to:

- Develop and manage project plans and budgets;
- Manage resources required to execute project plans and complete its tasks and deliverables;
- Review and track completion of defined tasks and deliverables;
- Develop and implement IT governance programs;
- Develop and implement governance, quality assurance, independent validation and verification, and risk management plans for IT projects; and
- Manage and track resolution of project issues and risks.

MINIMUM QUALIFICATIONS FOR CATEGORY 2

To qualify for this Service Category, interested Vendors **must** submit a Vendor Qualifications (SOQ Form 2) provided in Appendix A (Required SOQ Forms) describing:

1. Overall qualifications and experience in performing the services described in this Service Category; and
2. A minimum of three reference engagements with a combined total time of two (2) continuous years within the most recent three (3) years. Each referenced engagement **must** demonstrate the experience and qualifications in providing services with budgets of \$250,000 or more to include a minimum of two (2) of the following four (4) areas:
 - a. Certified (Project Management Institute or an accredited university) PMs who developed and managed IT projects.
 - b. Utilized standard IT Project Management Methodology, including "Work Breakdown Structures" and "GANNT" techniques in developing and managing project plans using Microsoft Project.
 - c. Developed and implemented IT governance programs with project governance plans.
 - d. Developed and implemented IT independent validation and verification (IV&V), quality assurance and risk management plans.
3. For **each** referenced engagement or project, Vendor **must** on SOQ Form 2:
 - Describe project plan structures, (IV&V) projects, quality assurance projects and/or risk management plans completed for enterprise projects.

CATEGORY 3: REQUIREMENTS ANALYSIS AND SOLICITATION DEVELOPMENT SERVICES

This Service Category includes consulting services to develop the business, functional and technical requirements, statements of work, change management, training, conduct fit-gap analysis, and develop acquisition recommendations and Request for Proposals (RFPs) for:

- System and data integration projects;
- Public sector applications and systems; and
- Application architecture, design and development using waterfall and/or agile development frameworks.

MINIMUM QUALIFICATIONS FOR CATEGORY 3

To qualify for this Service Category, interested Vendors **must** submit a Vendor Qualifications (SOQ Form 2) provided in Appendix A (Required SOQ Forms) describing:

1. Overall qualifications and experience in performing the services described in this Service Category; and
2. A minimum of three (3) reference engagements with a combined total time of two (2) continuous years within the most recent three (3) years. Each referenced engagement **must** demonstrate the experience and qualifications in providing services with budgets of \$250,000 or more to include a minimum of two (2) of the four (4) of the following:
 - a. Conducted requirements analysis to develop functional and technical requirements, and Request for Proposals for IT projects.
 - b. Performed system evaluations and fit-gap analysis to develop acquisition strategies.
 - c. Performed quality assurance (QA) and independent validation and verification (IV&V) of RFP requirements, including functional and technical requirements and statements of work.
 - d. Developed business, functional and technical requirements, statements of work, and change management services.
3. For **each** referenced engagement or project, Vendor **must** on SOQ Form 2:
 - Explain functional and technical requirements, and Request for Proposals and fit-gap analysis projects; and/or
 - Describe project plan structures, (IV&V) projects, quality assurance projects and risk management plans completed for enterprise projects; and/or
 - Describe business, functional and technical requirements, statements of work, and change management projects completed.

CATEGORY 4: TECHNICAL CONSULTING SERVICES

This Service Category includes technical consulting services to support the planning, design, development, architecture, implementation and application management services technology solutions described in the following Subcategories. Solutions may utilize cloud hosted and/or on-premises implementations. Vendors **must individually qualify** for **each** Subcategory:

- a. Enterprise Content Management, Analytics and Portal Services; examples include:
 - Documentum, OpenText Global 360, OpenText Content/Process Suite, and open source web content management, analytics and portal services.
- b. Electronic Forms, Workflow, Analytics and Portal Services; examples include:
 - Adobe, Nintex, Microsoft Flow/Forms, and Laserfiche electronic forms, workflow, analytics and portal services.
- c. Workplace Collaboration and Analytics Collaboration Services; examples include:
 - Microsoft Office 365, Analytics, Dynamics, Mobility and SharePoint collaboration services.
- d. Analytics, Business Intelligence, Visualization and Reporting Services; examples include:
 - IBM analytics, Cognos business intelligence, Information Server and reporting services, Microsoft Power BI, Tableau analytics, business intelligence and visualization services, and open source analytics, business intelligence and visualization services.
- e. Master Data and Identity Management Services; examples include:
 - IBM InfoSphere master data management services and Microsoft/Oracle enterprise identity management services.
- f. Geospatial Information Services; examples include:
 - ESRI ArcGIS geospatial information services.
- g. Infrastructure, Programming, Middleware and Operating System Services; examples include:
 - Red Hat middleware, cloud and Dev/Ops services, Oracle infrastructure, programming, middleware and OS services, IBM infrastructure, programming, middleware and OS services, and Hortonworks Hadoop ecosystem programming services
- h. Financial, Materials, Personnel, Timekeeping, Payroll, Customer Relationship and Facility Services; examples include:
 - CGI Advantage business applications and integration services, Oracle business applications and integration services, IBM Maximo facilities management applications and integration services, IBM Tririga facilities management applications and integration services, Salesforce business applications and integration services.
- i. Document Workflow and Imaging Services; examples include:
 - Bulk back file conversion and capture services, Captiva/Kofax capture services, and Image workflow solution services.
- j. Commercial Cloud and DC1 Data Center Services, examples include:

CATEGORY 4: TECHNICAL CONSULTING SERVICES (CONTINUED)

- Hybrid/Cloud architecture, configuration and migration services, cloud applications/infrastructure architecture, configuration and migration services, Security/Cyber architecture and configuration services, and Advanced Threat Analytics architecture and configuration services.
- k. Network, Application, Hardware and Systems Services, examples include:
 - Data center network services, wide area network (WAN) services, application architecture, configuration and migration services, hardware infrastructure configuration and migration services, and systems integration, operating systems and virtualization services.
- l. System Re-engineering Services, examples include:
 - Legacy application re-engineering, architecture, configuration and migration services, hardware infrastructure configuration and migration services, and systems integration, operating systems and virtualization services.
- m. Commercial/Government Cloud Managed Services, Software as a Service (SaaS), Platform as a Service (PaaS), Infrastructure as a Service (IaaS), and Database as a Service (DBaaS) Services, examples include:
 - Commercial/Government Cloud applications' architecture, configuration, migration services and managed services, Commercial/Government Cloud platforms' architecture, configuration, migration services and managed services, and Commercial/Government Cloud infrastructures' architecture, configuration, migration services and managed services.

MINIMUM QUALIFICATIONS FOR CATEGORY 4

To qualify for this Service Category, interested Vendors **must** submit a Vendor Qualifications (SOQ Form 2) provided in Appendix A (Required SOQ Forms) for each Subcategory stated above, (e.g., Category 4: Technical Consulting Services: 4a – Enterprise Content Management, Analytics and Portal Services), describing:

1. Overall qualifications and experience in performing the services described in this Service Category and Subcategory; and
2. A minimum of three (3) reference engagements with a combined total time of two (2) continuous years within the most recent three (3) years. Each referenced engagements **must** demonstrate the experience and qualifications in designing, developing and implementing solutions for an enterprise of at least 50 users and a minimum \$250,000 project budget using the technologies for the respective Subcategory.
3. For **each** referenced engagement or project in each Subcategory above, Vendor **must** describe on SOQ Form 2:
 - Explain the application, components and solution deployed for the technology in the Subcategory;
 - Any integration to other line of business systems performed; and
 - The infrastructure deployed.

CATEGORY 4: MINIMUM QUALIFICATIONS (CONTINUED)

Note: Each 4x Subcategory above contain examples of the type of consulting services acquired under the Subcategory. The companion Microsoft Excel Matrix document will contain all of the Contractors qualified for consulting services under a specific 4x Subcategory.

A Contractor not qualified for a solicitation's specific product set that wishes to bid **must** submit with their bid a SOQ Form 2 with references for the product set along.

CATEGORY 5: INFORMATION SECURITY RISK, MITIGATION AND FORENSICS SERVICES

This Service Category includes Information Security Risk Assessments, Compliance and Breach Mitigation and Notification Services described in the following Subcategories. Vendors **must** individually qualify for **each** Subcategory:

a. Information Security Risk Assessments and Compliance Services:

Provides a means to conduct penetration testing; to identify and assess risks and vulnerabilities utilizing an information security industry standard framework/methodology including the ability to develop and formulate an information security strategy derived from the risk assessment; to assess information security program maturity; and determine compliance with federal and State legislations or regulations, County/departmental policies, standards, and procedures.

b. Incident Response, Breach Mitigation and Notification Services:

Provide various types of breach services (e.g., data breach notification management, call center communications management, digital forensics, credit/identity theft monitoring and protection services), in response to information security/privacy incidents where regulated data (e.g., Personally Identifiable Information (PII), Protected Health Information (PHI)) has been compromised.

Incident Response Services includes computer security incident response support, log analysis, forensics, advanced malware analysis, advanced threat actor response support, and advanced threat/incident remediation assistance.

c. Computer Forensics, eDiscovery and Data Analytics Services:

Provides specialized services performing forensic analysis, including internet history reporting, data deletion, search assessment, intellectual property theft, deleted file recovery and deleted message recovery.

Data analytics services should incorporate evaluation of data sets using advanced analytics and traditional searching methodologies to evaluate, cull, and defensibly identify and refine potentially relevant documents. Consulting and education services comprised of a review process, technology-assisted review, predictive coding technologies, and methodologies.

Other service areas included in this sub-category are data preservation and collection strategies, training, eDiscovery legal hold consulting services including electronically stored information (ESI) Identification, data preservation, collection of unstructured and structured data, and computer forensics analysis.

MINIMUM QUALIFICATIONS FOR CATEGORY 5

To qualify for this Service Category, interested Vendors **must** submit a Vendor Qualifications (SOQ Form 2) provided in Appendix A (Required SOQ Forms) for each Subcategory stated above, (e.g., Category 5: Information Security Risk, Mitigation and Forensics Services: 5a – Information Security Risk Assessments and Compliance Services), describing:

1. Overall qualifications and experience in performing the services described in this Service Category and Subcategory; and
2. A minimum of three (3) reference engagements with a combined total time of one (1) continuous year within the most recent two (2) years.

CATEGORY 5: MINIMUM QUALIFICATIONS (CONTINUED)

Each referenced engagements **must** demonstrate the experience and qualifications in designing, developing and implementing solutions for an enterprise of at least 10,000 end points and a minimum \$100,000 project budget using the technologies for the respective Subcategory.

3. For **each** referenced engagement or project in each Subcategory, Vendor **must** on SOQ Form 2:
 - Describe the Information Security Risk Assessments and Compliance Services;
 - Describe the Incident Response, Breach Mitigation and Notification Services; and/or
 - Describe the Computer Forensics, eDiscovery and Data Analytics Services conducted.

CATEGORY 6: INFORMATION MANAGEMENT AND IT TRANSFORMATION SERVICES

This service category includes consulting services planning and implementation of enterprise programs, platforms, architectures, applications and/or **solutions** using modern technology and techniques described in the following Subcategories. Vendors **must** individually qualify for **each** Subcategory:

- a. Develop enterprise information management, technologies and security strategies, architectures and roadmaps.
- b. Develop and implement enterprise data management solutions including:
 - Data governance planning and implementation
 - Information asset management and data catalog development
 - Data profiling and data quality assessment
 - Master Data Management planning and implementation
- c. Develop enterprise data integration strategies and implementation including:
 - Development of enterprise data standards and models
 - Data integration analysis and architecture development
 - Development and implementation of ETL (Extract, Transform, Load) strategies
 - Data as a Service architecture planning and Enterprise Service Bus modeling
- d. Develop enterprise data store platform architecture and strategies including:
 - Data warehouse or data lake architecture design and implementation
 - Big Data technologies platform architecture design and implementation
 - Hadoop and Spark ecosystem design and implementation
- e. Develop and implement enterprise data analytics solutions including:
 - Entity and location analytics
 - Link analysis and social media analytics
 - Statistical analysis, data sciences and machine learning technologies
 - Big Data and analytics design, development and deployment
- f. Develop enterprise IT Transformation strategies and implementation including:
 - Platform as a service, DevOps, automation and container design and implementation
 - Open source, cloud native and mobile applications development and deployment
 - Extreme Agile development, pair programming design and implementation
 - Continuous integration/deployment (CI/CD) and test-driven development services (TDD)

MINIMUM QUALIFICATIONS FOR CATEGORY 6

To qualify for this Service Category, interested Vendors **must** submit a Vendor Qualifications (SOQ Form 2) provided in Appendix A (Required SOQ Forms) for each Subcategory stated above, (e.g., Category 6: Information Management and IT Transformation Services: 6a – Management, Technologies and Security Strategies, Architectures and Roadmaps), describing:

CATEGORY 6: MINIMUM QUALIFICATIONS (CONTINUED)

1. Overall qualifications and experience in performing the services described in this Service Category and Subcategory; and
2. A minimum of three (3) reference engagements with a combined total time of one (1) continuous year within the most recent two (2) years. Each referenced engagements **must** demonstrate the experience and qualifications in designing, developing and implementing solutions for an enterprise of at least 50 users and a minimum \$250,000 project budget using the technologies for the respective Subcategory.
3. For **each** referenced engagement or project in **each Subcategory**, Vendor **must** on SOQ Form 2:
 - Describe the application, components and solution deployed for the technology in the Subcategory;
 - Describe any integration to other line of business systems performed; and
 - Describe the infrastructure deployed.

ESMA WORK ORDER REQUIRED FORMS

The following are exhibits of the forms that are provided with each Work Order Solicitation:

1. **Sample Work Order:**

- [Attachment B1](#): Sample Statement of Work. The Work Order may also include a Statement of Requirements, a Statement of Work, a Project Schedule and a Payment Plan as appropriate for the successful completion of the ESMA Work Order.

The Work Order may be a Fixed Price Per Deliverable (FP/D) Work Order or a Time and Materials Per Deliverable (T&M/D) Work Order.

The Work Order may also be a Combination Work Order with a Fixed Price Per Deliverable (FP/D) component and a Time and Materials Per Deliverable (T&M/D) component.

2. The following form is required prior to the commencement of each ESMA Work Order.

- [Attachment B2](#): Certification of Employee Status Form
A new form Attachment B2 is also required for each change to the staff performing work on the Work Order.
- [Attachment B3](#): Certification of No Conflict of Interest
- [Attachment B4](#): COVID-19 Vaccination Certification of Compliance
- [Attachment B5](#): Contractor Acknowledgment, Confidentiality and Copyright Assignment Agreement *

*Any work order that designates Deliverables as to be County IP shall require execution of a new Contractor Acknowledgment, Confidentiality and Copyright Assignment Agreement.

3. A Work Order Amendment to the original Work Order in accordance with Paragraph 15.3 ([Work Order Amendments](#)) of the ESMA may be executed and is an update to the original Work Order showing the changes being made to the original Work Order.

County's Work Order Project Manager and Contractor must meet, define, develop and agree upon the Requirements, Tasks, Subtasks, Deliverables, Acceptance Criteria, Milestones, Payments and descriptions being amended (or added to as new) by this Work Order Amendment, including:

- A revised Statement of Requirements as defined above,
- A revised Statement of Work, as defined above,
- A revised Project Plan and Project Schedule as defined above,
- A new detailed cost documentation, including a cost calculation worksheet may be required as appropriate, and
- A revised Milestone and Payment Plan as defined above.

4. Accordingly, all other provisions of the original Work Order Statement of Work will remain in effect and binding upon both parties.

ESMA SAMPLE STATEMENT OF WORK**ESMA Project Name:** _____**ESMA Service Category:** _____**ESMA Service Sub-Category:** _____**Work Order Objective:**

(Department to provide a narrative description of the project and what it intends to accomplish through this work order).

Background:

(Department to provide a narrative describing all pertinent background information that would be helpful for the Qualified Contractors to obtain a better understanding the department, this project, and the department's rationale for issuing this work order).

Type of Work Order:

- ☐ A Fixed-Price Per Deliverable (FP/D) Work Order
- ☐ A Time and Materials Per Deliverable (T&M/D) Work Order
- ☐ A Combination Work Order (FP/D) and (T&M/D) (Applicable when there will be some personnel assigned to this project working on a fixed-price basis and others working on a time & materials basis).

Ownership of Deliverables:

- ☐ Deliverables are Joint IP
- ☐ Deliverables are County IP

Contractor Pre-Existing Work (if any):

(To be completed by Contractor and verified by Department; may not include any Deliverables.)

ESMA Work Order Required Minimum Qualifications (if any):

(For the project being addressed by this ESMA Work Order solicitation, the department must specify any additional minimum requirements in addition to the ESMA Service Category minimum requirements that the department wants for this ESMA Work Order solicitation. The department must also specify any additional minimum requirements for the project team being proposed by the Contractor.)

"If Proposer's/Bidder's compliance with a County contract has been reviewed by the Department of the Auditor-Controller within the last 10 years, Proposer/Bidder must not have unresolved questioned costs identified by the Auditor-Controller in an amount over \$100,000.00 that are confirmed to be disallowed costs by the contracting County department and remain unpaid for a period of six months or more from the date of disallowance, unless such disallowed costs are the subject of current good faith negotiations to resolve the disallowed costs, in the opinion of the contracting County department."

ESMA Work Order Period of Performance:

(Department to specify the expected period of performance for completion of all tasks covered under this Work Order.

ESMA Work Order Statement of Work: The Specific Tasks, Deliverables and Acceptance Criteria for each Task, Subtask and Deliverable:

(The following is an example of the task/subtask/deliverable/acceptance criteria relationship that is required to complete the ESMA Work Order.)

Task 1: (Name of Task 1)

(Department to describe specific task and include any relevant time period within which this task is expected to be completed. Failure by contractor to complete this task within that stated time period may, at County's sole discretion, result in the termination of the work order, unless otherwise specified.)

Subtask 1: (Name of Subtask 1)

(Department to describe specific subtask and include any relevant time period within which this subtask is expected to be completed. Failure by contractor to complete this task within that stated time period may, at County's sole discretion, result in the termination of the work order, unless otherwise specified.)

Deliverable 1: (Name of Deliverable 1)

(Department to describe specifically what constitutes the deliverable under Task 1 or Subtask 1.)

Acceptance Criteria for Deliverable 1: (Name of Acceptance Criteria)

(Department to describe specifically what initial and final acceptance criteria will be used in determining whether the Deliverable under Task 1 or Subtask 1 has been successfully fulfilled by the Contractor. This may serve as a pay point for this deliverable, once these criteria have been met and accepted by the County Departmental Work Order Project Manager.)

Additional Tasks, Deliverables and Acceptance Criteria:

(For additional Tasks, Subtask, Deliverables and Acceptance Criteria – Repeat the above sequence until the work order is fully defined.)

ESMA Work Order Work Schedule and Location:

(Department to describe work schedule and work location expectations. For example, specify if the department is requiring the contractor(s) to only work on-site during normal the department's normal business hours or whether tasks can be completed off-site whenever the contractor wishes, as long as deliverables are met within the time periods specified. If contractor(s) are required to only work on-site, provide the address and room number where the contractor(s) are required to report and work.)

Payment For Services and Deliverables:

The payment terms for any undisputed invoice are thirty (30) calendar days after receipt. Certified Local LSBEs will receive prompt payment for services they provide to County Departments. Prompt payment is defined as fifteen (15) calendar days after receipt of an undisputed invoice. (If Department desires payment terms longer than the thirty (30) days provided for in Paragraph 12.0 ([Invoices and Payments](#)), Section 12.11 of the ESMA, specify that in this Paragraph.)

Invoice Withhold Percentage (if any) (Department to complete, may not exceed 20%).

Total Maximum Amount:

(For FP/D Work Orders, Department will list all Tasks/Deliverables and the Fixed-Price amount for each Deliverable.)

(For T&M/D Work Orders, Department will list all Tasks/Deliverables and the Time and Materials Price amount for each Deliverable.)

(Some T&M positions may not lend themselves to a strict payment by deliverable (e.g., project management) so some exceptions can be made to payment-for-deliverables-only arrangements, when appropriate.)

Warranty Period:

(If Department desires a Warranty Period of other than the thirty (30) days provided for in Section 9.1 ([Work Order Warranties](#)) of the ESMA, specify that in this Paragraph. If the 30-day Warranty Period is acceptable, Department to indicate "30 Days, as provided for in the ESMA".)

Background and Security Investigations:

(If Department desires background investigations that exceed those that are specified in Section 14.6 ([Background and Security Investigations](#)) of the ESMA, specify those additional measures in this Section. In addition, specify who will pay for such additional background investigations. If the background checks specified in the ESMA are acceptable, Department to indicate "Contractor's Background Checks are as provided for in Section 14.6 of the ESMA.")

Data Security:

(If Department desires data security measures that exceed those that are specified in Section 69.2 ([Data Security](#)) of the ESMA, specify those additional measures in this Section. If the data security measures specified in the ESMA are acceptable, Department to indicate "Contractor's Data Security requirements for this Work Order are as provided for in Section 69.2 of the ESMA.")

CERTIFICATION OF EMPLOYEE STATUS

(NOTE: THIS CERTIFICATION IS TO BE EXECUTED AND RETURNED TO COUNTY WITH CONTRACTOR'S EXECUTED WORK ORDER. WORK CANNOT BEGIN ON THE WORK ORDER UNTIL COUNTY RECEIVES THIS EXECUTED DOCUMENT.)

CONTRACTOR NAME

Work Order No. _____ County Master Agreement No. _____

I CERTIFY THAT: (1) I am an Authorized Official of Contractor; (2) the individual(s) named below is(are) this organization's employee(s); (3) applicable state and federal income tax, FICA, unemployment insurance premiums, and workers' compensation insurance premiums, in the correct amounts required by state and federal law, will be withheld as appropriate, and paid by Contractor for the individual(s) named below for the entire time period covered by the attached Work Order.

EMPLOYEES

1. _____
2. _____
3. _____
4. _____

I declare under penalty of perjury that the foregoing is true and correct.

Signature of Authorized Official

Printed Name of Authorized Official

Title of Authorized Official

Date

CERTIFICATION OF NO CONFLICT OF INTEREST

(NOTE: THIS CERTIFICATION IS TO BE EXECUTED AND RETURNED TO COUNTY WITH CONTRACTOR'S EXECUTED WORK ORDER. WORK CANNOT BEGIN ON THE WORK ORDER UNTIL COUNTY RECEIVES THIS EXECUTED DOCUMENT.)

CONTRACTOR NAME

Work Order No. _____ County Master Agreement No. _____

Los Angeles County Code Section 2.180.010.A provides as follows:

“Certain contracts prohibited.

- A. Notwithstanding any other section of this code, the county shall not contract with, and shall reject any bid or proposal submitted by, the persons or entities specified below, unless the board of supervisors finds that special circumstances exist which justify the approval of such contract:
1. Employees of the county or of public agencies for which the board of supervisors is the governing body;
 2. Profit-making firms or businesses in which employees described in subdivision 1 of subsection A serve as officers, principals, partners, or major shareholders;
 3. Persons who, within the immediately preceding 12 months, came within the provisions of subdivision 1 of subsection A, and who:
 - a. Were employed in positions of substantial responsibility in the area of service to be performed by the contract; or
 - b. Participated in any way in developing the contract or its service specifications; and
 4. Profit-making firms or businesses in which the former employees, described in subdivision 3 of subsection A, serve as officers, principals, partners, or major shareholders.”

Contractor hereby declares and certifies that no Contractor Personnel, nor any other person acting on Contractor’s behalf, who prepared and/or participated in the preparation of the bid or proposal submitted for the Work Order specified above, is within the purview of County Code Section 2.180.010.A, above.

I declare under penalty of perjury that the foregoing is true and correct.

Signature of Authorized Official

Printed Name of Authorized Official

Title of Authorized Official

Date

COVID-19 Vaccination Certification of Compliance

URGENCY ORDINANCE, COUNTY CODE TITLE 2 – ADMINISTRATION, DIVISION 4 – MISCELLANEOUS – CHAPTER 2.212 (COVID-19 VACCINATIONS OF COUNTY CONTRACTOR PERSONNEL)

I, _____, on behalf of _____, (the “Contractor”), certify that on County Contract _____ [ENTER CONTRACT NUMBER AND NAME]:

_____ All Contractor Personnel* on this Contract are fully vaccinated as required by the Ordinance.

_____ Most Contractor Personnel* on this Contract are fully vaccinated as required by the Ordinance. The Contractor or its employer of record, has granted a valid medical or religious exemption to the below identified Contractor Personnel. Contractor will certify weekly that the following unvaccinated Contractor Personnel have tested negative within 72 hours of starting their work week under the County Contract, unless the contracting County department requires otherwise. The Contractor Personnel who have been granted a valid medical or religious exemption are [LIST ALL CONTRACTOR PERSONNEL]:

*Contractor Personnel includes Subcontractors.

I have authority to bind the Contractor, and have reviewed the requirements above and further certify that I will comply with said requirements.

Signature

Date

Title

Company/Contractor Name

**CONTRACTOR ACKNOWLEDGEMENT, CONFIDENTIALITY, AND
COPYRIGHT ASSIGNMENT AGREEMENT**

(NOTE: THIS CERTIFICATION IS TO BE EXECUTED AND RETURNED TO COUNTY WITH CONTRACTOR'S EXECUTED WORK ORDER. WORK CANNOT BEGIN ON THE WORK ORDER UNTIL COUNTY RECEIVES THIS EXECUTED DOCUMENT FROM CONTRACTOR AND EACH SUBCONTRACTOR, AS APPLICABLE.)

Contractor Name _____

Work Order No. _____ County Master Agreement No. _____

Subcontractor Name _____ (if applicable)

GENERAL INFORMATION:

The Contractor referenced above has entered into an Enterprise Services Master Agreement (ESMA or Master Agreement) with the County of Los Angeles (County) to provide certain services to the County. The County requires the Contractor and each Subcontractor to sign this Contractor Acknowledgement, Confidentiality, and Copyright Assignment Agreement (Confidentiality Agreement), for itself and on behalf of Contractor or Subcontractor Staff, as applicable and as defined below. If this Confidentiality Agreement is signed by the Subcontractor, all references to Contractor below will mean the Subcontractor.

CONTRACTOR ACKNOWLEDGEMENT:

Contractor understands and agrees that the Contractor Personnel, Consultants, employees, consultants, outsourced Vendors and independent contractors (Contractor's Staff) that will provide services in the above referenced agreement are Contractor's sole responsibility. Contractor understands and agrees that Contractor's Staff must rely exclusively upon Contractor for payment of salary and any and all other benefits payable by virtue of Contractor's Staff's performance of work under the above-referenced Master Agreement or Subcontract, as applicable.

Contractor understands and agrees that Contractor's Staff are not employees of the County of Los Angeles for any purpose whatsoever and that Contractor's Staff do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of my performance of work under the above-referenced Master Agreement or Subcontract, as applicable. Contractor understands and agrees that Contractor's Staff will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

CONFIDENTIALITY AGREEMENT:

Contractor and Contractor's Staff may be involved with work pertaining to services provided by the County of Los Angeles and, if so, Contractor and Contractor's Staff may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, Contractor and Contractor's Staff may also have access to proprietary information supplied by other Vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. Contractor and Contractor's Staff understand that if they are involved in County work, the County must ensure that Contractor and Contractor's Staff, will protect the confidentiality of such data and information. Consequently, Contractor must sign this Confidentiality Agreement as a condition of work to be provided by Contractor's Staff for the County.

Contractor and Contractor's Staff hereby agrees that they will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced Master Agreement or Subcontract, as applicable. To the extent permitted by law, Contractor and Contractor's Staff agree to forward all requests for the release of any data or information received to County's Project Manager.

Contractor and Contractor's Staff agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, County proprietary information and all other original materials produced, created, or provided to Contractor and Contractor's Staff under the above-referenced Master Agreement or Subcontract, as applicable. Contractor and Contractor's Staff agree to protect these confidential materials against disclosure to other than Contractor or County employees who have a need to know the information. Contractor and Contractor's Staff agree that if proprietary information supplied by other County Vendors is provided to it, which is necessary for the performance of the services. Contractor and Contractor's Staff must keep such information confidential.

**CONTRACTOR ACKNOWLEDGEMENT, CONFIDENTIALITY, AND
COPYRIGHT ASSIGNMENT AGREEMENT**

CONTRACTOR AND CONTRACTOR'S STAFF ACKNOWLEDGE THAT VIOLATION OF THIS AGREEMENT MAY SUBJECT CONTRACTOR AND CONTRACTOR'S STAFF TO CIVIL AND/OR CRIMINAL ACTION AND THAT THE COUNTY OF LOS ANGELES MAY SEEK ALL POSSIBLE LEGAL REDRESS.

_____ By initialing here, Contractor agrees that the Deliverables acquired by County under this Work Order are County IP, as defined in the Master Agreement, and subject to the Copyright Assignment Agreement below.

START OF COPYRIGHT ASSIGNMENT AGREEMENT

Contractor and Contractor's Staff agree that all Deliverables developed or acquired under this ESMA Work Order by County in whole or in part pursuant to the above referenced ESMA, and all works based thereon, incorporated therein, or derived therefrom (excluding Contractor Preexisting Work and Joint IP) will be the sole property of the County.

In connection with this, Contractor and Contractor's Staff hereby assign and transfer to the County in perpetuity for all purposes all their right, title, and interest in and to all such items, including, but not limited to, all unrestricted and exclusive copyrights, patent rights, trade secret rights, and all renewals and extensions thereof.

Whenever requested by the County, Contractor and Contractor's Staff agree to promptly execute and deliver to County all papers, instruments, and other documents requested by the County, and to promptly perform all other acts requested by the County to carry out the terms of this agreement, including, but not limited to, executing an assignment and transfer of copyright of such Deliverables.

The County will have the right to register all copyrights in the name of the County of Los Angeles and will have the right to assign, license, or otherwise transfer any and all of the County's right, title, and interest, including, but not limited to, copyrights, in and to the items described above.

END OF COPYRIGHT ASSIGNMENT AGREEMENT

Contractor acknowledges that violation of this agreement may subject it to civil and/or criminal action and that the County of Los Angeles may seek all possible legal redress.

CONTRACTOR: _____

By: _____

DATE: ____/____/____

Printed Name: _____

Title: _____

COUNTY'S ADMINISTRATION OF MASTER AGREEMENT

COUNTY ENTERPRISE SERVICES MASTER AGREEMENT ADMINISTRATOR (ESMA ADMINISTRATOR):

Name: **ESMA Administrator**
 Address: 9150 East Imperial Hwy
 Downey, CA 90242

COUNTY CONTRACT ADMINISTRATOR (CONTRACT ADMINISTRATOR):

Name: **Contract Administrator**
 Address: 1100 N. Eastern Avenue
 Los Angeles, CA 90063

COUNTY WORK ORDER PROJECT DIRECTOR:

(THIS SECTION WILL BE COMPLETED BY THE COUNTY DEPARTMENTAL WORK ORDER PROJECT DIRECTOR ASSIGNED TO THE SPECIFIC WORK ORDER EXECUTED UNDER THIS AGREEMENT)

Name: _____
 Title: _____
 Address: _____

 Telephone: _____
 E-Mail Address: _____

COUNTY WORK ORDER PROJECT MANAGER:

(THIS SECTION WILL BE COMPLETED BY THE COUNTY DEPARTMENTAL WORK ORDER PROJECT MANAGER ASSIGNED TO THE SPECIFIC WORK ORDER EXECUTED UNDER THIS AGREEMENT)

Name: _____
 Title: _____
 Address: _____

 Telephone: _____
 E-Mail Address: _____

CONTRACTOR'S ADMINISTRATION**CONTRACTOR NAME** (AS IT APPEARS ON STATE FILED DOCUMENT)**SIGNATURE** (BY AUTHORIZED OFFICIAL; HIGHEST RANKED TITLE)**DATE****PRINT NAME****MASTER AGREEMENT PARAGRAPH:****14.1 CONTRACTOR'S PROJECT DIRECTOR (A) AND DESIGNEE (B):**

(RESPONSIBLE FOR CONTRACTOR'S ADMINISTRATION OF THIS MASTER AGREEMENT AND WILL COORDINATE WITH COUNTY'S ESMA ADMINISTRATOR, OR HIS OR HER DESIGNEE, WITH RESPECT TO ALL ADMINISTRATIVE MATTERS)

A. Name: _____	B. Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
_____	_____
Telephone: _____	Telephone: _____
Facsimile: _____	Facsimile: _____
E-Mail ID: _____	E-Mail ID: _____

14.2 CONTRACTOR'S PROJECT MANAGER (A) AND DESIGNEE (B):

(RESPONSIBLE FOR CONTRACTOR'S DAY-TO-DAY ACTIVITIES AS RELATED TO THIS MASTER AGREEMENT AND WILL COORDINATE WITH COUNTY'S WORK ORDER PROJECT MANAGERS ON A REGULAR BASIS WITH RESPECT TO ALL ACTIVE WORK ORDERS)

A. Name: _____	B. Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
_____	_____
Telephone: _____	Telephone: _____
Facsimile: _____	Facsimile: _____
E-Mail ID: _____	E-Mail ID: _____

14.3 CONTRACTOR'S AUTHORIZED OFFICIAL (A) AND DESIGNEE (B):

(CONTRACTOR REPRESENTS AND WARRANTS THAT ALL REQUIREMENTS OF CONTRACTOR HAVE BEEN FULFILLED TO PROVIDE ACTUAL AUTHORITY TO SUCH OFFICIALS TO EXECUTE DOCUMENTS UNDER THIS MASTER AGREEMENT ON BEHALF OF CONTRACTOR)

A. Name: _____	B. Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
_____	_____
Telephone: _____	Telephone: _____
Facsimile: _____	Facsimile: _____
E-Mail ID: _____	E-Mail ID: _____

CONTRACTOR'S ADMINISTRATION (CONTINUED)

CONTRACTOR NAME

49.0 NOTICES TO CONTRACTOR WILL BE SENT TO THE FOLLOWING ADDRESS:

(ALL NOTICES OR DEMANDS REQUIRED OR PERMITTED TO BE GIVEN OR MADE UNDER THIS MASTER AGREEMENT)

Address: _____

Facsimile: _____

E-Mail ID: _____

The responses to items #1 through #6 below are requested for informational purposes only.

1. If your firm is a corporation; enter state filed (legal) name (found on the Articles of Incorporation) and the state where Incorporated:

Name: _____

State: _____

2. Is your firm a partnership? Yes ☐ No ☐ or, a sole proprietorship? Yes ☐ No ☐

If yes, enter the name of the proprietor or managing partner:

3. Is your firm doing business under one or more DBA's? Yes ☐ No ☐

If yes, please list all DBA's and the County(s) of registration:

Name

County of Registration

4. Is your firm wholly or majority owned by, or a subsidiary of, another firm? Yes ☐ No ☐

If yes, please enter;

Name of parent firm: _____

State of incorporation or registration of parent firm: _____

5. Please provide office facsimile number: _____

6. Please provide office E-Mail address: _____

SAFELY SURRENDERED BABY LAW

THERE'S A BETTER CHOICE.
SAFELY SURRENDER YOUR BABY.

Any fire station. Any hospital. Any time.

1.877.222.9723  BabySafeLA.org

No shame | No blame | No names



Some parents of newborns can find themselves in difficult circumstances. Sadly, babies are sometimes harmed or abandoned by parents who feel that they're not ready or able to raise a child. Many of these mothers or fathers are afraid and don't know where to turn for help.

This is why California has a Safely Surrendered Baby Law, which gives parents the choice to legally leave their baby at any hospital or fire station in Los Angeles County.

FIVE THINGS YOU NEED TO KNOW ABOUT BABY SAFE SURRENDER

- 1 Your newborn can be surrendered at any hospital or fire station in Los Angeles County up to 72 hours after birth.
- 2 You must leave your newborn with a fire station or hospital employee.
- 3 You don't have to provide your name.
- 4 You will only be asked to voluntarily provide a medical history.
- 5 You have 14 days to change your mind; a matching bracelet (parent) and anklet (baby) are provided to assist you if you change your mind.

No shame | No blame | No names



ABOUT THE BABY SAFE SURRENDER PROGRAM

In 2002, a task force was created under the guidance of the Children's Planning Council to address newborn abandonment and to develop a strategic plan to prevent this tragedy.

Los Angeles County has worked hard to ensure that the Safely Surrendered Baby Law prevents babies from being abandoned. We're happy to report that this law is doing exactly what it was designed to do: save the lives of innocent babies. Visit BabySafeLA.org to learn more.

No shame | No blame | No names

ANY FIRE STATION.
ANY HOSPITAL.
ANY TIME.

1.877.222.9723
BabySafeLA.org

THERE'S A
BETTER CHOICE.
SAFELY SURRENDER
YOUR BABY.



No shame | No blame | No names





FROM SURRENDER TO ADOPTION: ONE BABY'S STORY

Los Angeles County firefighter Ted and his wife Becki were already parents to two boys. But when they got the call asking if they would be willing to care for a premature baby girl who'd been safely surrendered at a local hospital, they didn't hesitate.

Baby Jenna was tiny, but Ted and Becki felt lucky to be able to take her home. "We had always wanted to adopt," Ted says, "but taking

home a vulnerable safely surrendered baby was even better. She had no one, but now she had us. And, more importantly, we had her."

Baby Jenna has filled the longing Ted and Becki had for a daughter—and a sister for their boys. Because her birth parent safely surrendered her when she was born, Jenna is a thriving young girl growing up in a stable and loving family.

ANSWERS TO YOUR QUESTIONS

Who is legally allowed to surrender the baby?

Anyone with lawful custody can drop off a newborn within the first 72 hours of birth.

Do you need to call ahead before surrendering a baby?

No. A newborn can be surrendered anytime, 24 hours a day, 7 days a week, as long as the parent or guardian surrenders the child to an employee of the hospital or fire station.

What information needs to be provided?

The surrendering adult will be asked to fill out a medical history form, which is useful in caring for the child. The form can be returned later and includes a stamped return envelope. No names are required.

What happens to the baby?

After a complete medical exam, the baby will be released and placed in a safe and loving home, and the adoption process will begin.

What happens to the parent or surrendering adult?

Nothing. They may leave at any time after surrendering the baby.

How can a parent get a baby back?

Parents who change their minds can begin the process of reclaiming their baby within 14 days by calling the Los Angeles County Department of Children and Family Services at (800) 540-4000.

If you're unsure of what to do:

You can call the hotline 24 hours a day, 7 days a week and anonymously speak with a counselor about your options or have your questions answered.

1.877.222.9723 or BabySafeLA.org

English, Spanish and 140 other languages spoken.

ESMA RISK SCHEDULE

The following Risk Schedules are assigned to each ESMA Category according to Services being provided within the Categories' ESMA Work Orders.

The ESMA Work Order Limitation of Liability for ESMA Master Agreement Paragraph 20.0 ([Compliance with Applicable Law](#)), Paragraph 32.0 ([Employment Eligibility Verification](#)), Paragraph 34.0 ([Fair Labor Standards](#)), Paragraph 39.0 ([Intellectual Property Indemnification](#)), Paragraph 40.0 ([Contractor Acts And/Or Omissions Indemnification](#)), Paragraph 42.0 ([General Provisions for all Insurance Coverage](#)), Section 14.7 ([Confidentiality and Security](#)) and Paragraph 55.0 ([Subcontracting](#)) will be as follows:

1. For Work Orders issued for Services in ESMA Category One, Two, Three, Five and Six Work Orders, Contractor's liability for applicable Work Orders will be limited to the greater of five (5) times the ESMA Work Order's Total Maximum Sum or Five Million Dollars (\$5,000,000), whichever is greater.
2. For Work Orders issued for Services in ESMA Category Four Work Orders, Contractor's liability for applicable Work Orders will be limited to the greater of ten (10) times the ESMA Work Order's Total Maximum Sum or Ten Million Dollars (\$10,000,000), whichever is greater.

If a Work Orders is issued for Services in multiple Categories, the limitation of liability will be set at the higher designation set forth above (e.g., a Work Order issued for Services in Category Four and Category Five will have the limitation of liability set for Category Four).

ESMA HIPAA BUSINESS ASSOCIATE AGREEMENT

County is a Covered Entity as defined by, and subject to the requirements and prohibitions of, the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, including by the Health Information Technology for Economic & Clinical Health Act of ("HITECH Act") of the America Recovery and Reinvestment Act of 2009 (collectively "HIPAA"), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules").

Contractor performs or provides functions, activities or services to County that may require Contractor in order to provide such functions, activities or services to access, receive, maintain, and/or transmit information that includes Protected Health Information, as defined by the HIPAA Rules. As such, Contractor may act as a Business Associate, as defined by the HIPAA Rules, and is therefore subject to those provisions of the HIPAA Rules that are applicable to Business Associates. County acknowledges that Contractor may act in a capacity other than as a business associate and that this Business Associate Agreement only applies to the extent that Contractor is acting as a business associate for County.

The HIPAA Rules require a written agreement ("Business Associate Agreement") between County and Contractor in order to mandate certain protections for the privacy and security of Protected Health Information, and these HIPAA Rules prohibit the disclosure to or use of Protected Health Information by Contractor if such an agreement is not in place.

This Business Associate Agreement and its provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Contractor in compliance with the HIPAA Rules. This Business Associate Agreement (Exhibit G) is hereby incorporated by reference into the Enterprise Services Master Agreement ("ESMA") Contract Number (Insert Contract Number) and shall apply to Work Order (Insert Work Order number) issued thereunder. This Business Associate Agreement shall be applicable solely to Protected Health Information (i) received by Contractor from County or (ii) received or maintained by Contractor on behalf of County.

Therefore, the parties agree as follows:

1. DEFINITIONS:

- 1.1 "Breach" has the same meaning as the term "breach" at 45 C.F.R. § 164.402.
- 1.2 "Business Associate" has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. For the convenience of the parties, a "business associate" is a person or entity, other than a member of the workforce of covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to Protected Health Information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of another business associate. And in reference to the party to this Business Associate Agreement "Business Associate" shall mean Contractor.
- 1.3 "Covered Entity" has the same meaning as the term "covered entity" at 45 C.F.R. § 160.103, and in reference to the party to this Business Associate Agreement, "Covered Entity" shall mean County.
- 1.4 "Data Aggregation" has the same meaning as the term "data aggregation" at 45 C.F.R. § 164.501.
- 1.5 "De-identification" refers to the de-identification standard at 45 C.F.R. § 164.514.
- 1.6 "Designated Record Set" has the same meaning as the term "designated record set" at 45 C.F.R. § 164.501.

- 1.7 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its workforce. (See 45 C.F.R. § 160.103.)
- 1.8 "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff. (See 42 U.S.C. § 17921.)
- 1.9 "Electronic Media" has the same meaning as the term "electronic media" at 45 C.F.R. § 160.103. For the convenience of the parties, electronic media means (1) Electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media if the information being exchanged did not exist in electronic form immediately before the transmission.
- 1.10 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" at 45 C.F.R. § 160.103, limited to Protected Health Information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.
- 1.11 "Health Care Operations" has the same meaning as the term "health care operations" at 45 C.F.R. § 164.501.
- 1.12 "Individual" has the same meaning as the term "individual" at 45 C.F.R. § 160.103. For the convenience of the parties, Individual means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502 (g).
- 1.13 "Law Enforcement Official" has the same meaning as the term "law enforcement official" at 45 C.F.R. § 164.103.
- 1.14 "Minimum Necessary" refers to the minimum necessary standard at 45 C.F.R. § 164.502 (b).
- 1.15 "Protected Health Information" has the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, and includes Protected Health Information that is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Protected Health Information.
- 1.16 "Required by Law" has the same meaning as the term "required by law" at 45 C.F.R. § 164.103.

- 1.17 "Secretary" has the same meaning as the term "secretary" at 45 C.F.R. § 160.103.
- 1.18 "Security Incident" has the same meaning as the term "security incident" at 45 C.F.R. § 164.304.
- 1.19 "Services" means, unless otherwise specified, those functions, activities, or services in the Work Order issued under the Enterprise Services Master Agreement that give rise to Contractor's status as a Business Associate. Such functions, activities, or services by way of example, may include system implementation whereby any and all data remains on Covered Entity's premises, behind Covered Entity's firewalls, and in Covered Entity's secured area. Services are not intended by the parties to include by way of example the hosting of Covered Entity's Protected Health Information outside of the Covered Entity's premises or other similar functions, services, or activities that are outside of the scope of the Enterprise Services Master Agreement.
- 1.20 "Subcontractor" has the same meaning as the term "subcontractor" at 45 C.F.R. § 160.103.
- 1.21 "Enterprise Services Master Agreement" means that certain ESMA Contract Number specified above.
- 1.22 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" at 45 C.F.R. § 164.402.
- 1.23 "Use" or "Uses" means, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations. (See 45 C.F.R § 164.103.)

Terms used, but not otherwise defined in this Business Associate Agreement, have the same meaning as those terms in the HIPAA Rules.

2. PERMITTED AND REQUIRED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

- 2.1 Business Associate may only Use and/or Disclose Protected Health Information as necessary to perform Services, and/or as necessary to comply with the obligations of this Business Associate Agreement.
- 2.2 Business Associate may Use Protected Health Information for de-identification of the information if de-identification of the information is required to provide Services or upon the written approval of Covered Entity.
- 2.3 Business Associate may Use or Disclose Protected Health Information as Required by Law.
- 2.4 Business Associate shall make Uses and Disclosures and requests for Protected Health Information consistent with the Covered Entity's applicable Minimum Necessary policies and procedures, which have been provided to Business Associate in writing.
- 2.5 Business Associate may Use Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities.
- 2.6 Business Associate may Disclose Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities, provided the Disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed (i.e., the recipient) that it will be held confidentially and Used or further Disclosed only as required by Law or for the purposes for which it was disclosed to the recipient and the recipient notifies Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.
- 2.7 Business Associate may provide Data Aggregation services relating to Covered Entity's Health Care Operations if such Data Aggregation services are necessary in order to provide Services.

3. PROHIBITED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

- 3.1 Business Associate shall not Use or Disclose Protected Health Information other than as permitted or required by this Business Associate Agreement or as Required by Law.
- 3.2 Business Associate may not create or transmit County Protected Health Information.
- 3.3 Business Associate shall not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Sections 2.5 and 2.6.
- 3.4 Business Associate shall not Use or Disclose Protected Health Information for de-identification of the information except as set forth in section 2.2.

4. OBLIGATIONS TO SAFEGUARD PROTECTED HEALTH INFORMATION

- 4.1 Business Associate shall implement, use, and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information other than as provided for by this Business Associate Agreement and the Parties agree that no additional safeguards beyond Business Associate's compliance with 45 CFR Part 160 and Subparts A and C of Part 164 are necessary under this Business Associate Agreement unless specifically specified in writing by the applicable Work Order.
- 4.2 Business Associate shall comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for by this Business Associate Agreement and the Parties agree that no additional safeguards beyond Subpart C of 45.C.F.R. Part 164 are to be implemented under this Business Associate Agreement unless specifically specified in writing by the applicable Work Order.

5. REPORTING NON-PERMITTED USES OR DISCLOSURES, SECURITY INCIDENTS, AND BREACHES OF UNSECURED PROTECTED HEALTH INFORMATION

- 5.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information not permitted by this Business Associate Agreement, any Security Incident, and/ or any Breach of Unsecured Protected Health Information as further described in Sections 5.1.1, 5.1.2, and 5.1.3.
 - 5.1.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors not provided for by this Agreement of which Business Associate becomes aware.
 - 5.1.2 Business Associate shall report to Covered Entity any Security Incident of which Business Associate becomes aware.
 - 5.1.3. Business Associate shall report to Covered Entity any Breach by Business Associate, its employees, representatives, agents, workforce members, or Subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate, including a Subcontractor, as determined in accordance with the federal common law of agency.

- 5.2 Except as provided in Section 5.3, for any reporting required by Section 5.1, Business Associate shall provide, to the extent available, all information required by, and within the times frames specified in, Sections 5.2.1 and 5.2.2.
- 5.2.1 Business Associate shall make a telephonic report as promptly as possible and without unreasonable delay upon discovery by Business Associate but in no event more than five (5) business days from such discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information to **(562) 940-3335** that minimally includes:
- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
 - (b) The number of Individuals whose Protected Health Information is involved;
 - (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved);
 - (d) The name and contact information for a person highly knowledge of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.
- 5.2.2 Business Associate shall make a written report without unreasonable delay and in no event later than ten (10) business days from the date of discovery by Business Associate of the non-permitted Use or Disclosure of Protected Health Information, Security Incident, or Breach of Unsecured Protected Health Information and to the **HIPAA Compliance Officer at: Hall of Records, County of Los Angeles, Chief Executive Office, Risk Management Branch-Office of Privacy, 320 W. Temple Street, 7th Floor, Los Angeles, California 90012, PRIVACY@ceo.lacounty.gov**, that includes, to the extent possible:
- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
 - (b) The number of Individuals whose Protected Health Information is involved;
 - (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved);
 - (d) The identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, Used, or Disclosed;
 - (e) Any other information necessary to conduct an assessment of whether notification to the Individual(s) under 45 C.F.R. § 164.404 is required;
 - (f) Any steps Business Associate believes that the Individual(s) could take to protect him or herself from potential harm from the non-permitted Use or Disclosure, Security Incident, or Breach;
 - (g) A brief description of what Business Associate is doing to investigate, to mitigate harm to the Individual(s), and to protect against any further similar occurrences; and
 - (h) The name and contact information for a person highly knowledge of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.

- (i) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.
- 5.2.3 If Business Associate is not able to provide the information specified in Section 5.2.1 or 5.2.2 at the time of the required report, Business Associate shall provide such information promptly thereafter as such information becomes available.
- 5.3 Business Associate may delay the notification required by Section 5.1.3, if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security.
 - 5.3.1 If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay its reporting and/or notification obligation(s) for the time period specified by the official.
 - 5.3.2 If the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay its reporting and/or notification obligation(s) temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in Section 5.3.1 is submitted during that time.

6. WRITTEN ASSURANCES OF SUBCONTRACTORS

- 6.1 Business Associate shall not use any Subcontractor as defined in 45 C.F.R. § 160.103, and Business Associate shall not permit any subcontractor to create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate with respect to the Services performed, without the prior written approval of the Covered Entity. In the event that Covered Entity approves the use of a Subcontractor, Business Associate shall comply with the provisions of this Section 6.
- 6.2 Business Associate shall take reasonable steps to cure any material breach or violation by Subcontractor of the agreement required by Section 6.1.
- 6.3 If the steps required by Section 6.2 do not cure the breach or end the violation, Contractor shall terminate, if feasible, any arrangement with Subcontractor by which Subcontractor creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate.
- 6.4 If neither cure nor termination as set forth in Sections 6.2 and 6.3 is feasible, Business Associate shall immediately notify County.
- 6.5 Without limiting the requirements of Section 6.1, the agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall require Subcontractor to contemporaneously notify Covered Entity in the event of a Breach of Unsecured Protected Health Information.
- 6.6 Without limiting the requirements of Section 6.1, agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall include a provision requiring Subcontractor to destroy, or in the alternative to return to Business Associate, any Protected Health Information created, received, maintained, or transmitted by Subcontractor on behalf of Business Associate so as to enable Business Associate to comply with the provisions of Section 18.4.
- 6.7 Business Associate shall provide to Covered Entity, at Covered Entity's request, a copy of any and all Subcontractor Business Associate Agreements required by Section 6.1.
- 6.8 Sections 6.1 and 6.7 are not intended by the parties to limit in any way the scope of Business Associate's obligations related to Subcontracts or Subcontracting in the Enterprise Master Agreement Services Agreement and/or Work Order.

7. ACCESS TO PROTECTED HEALTH INFORMATION

- 7.1 To the extent Covered Entity determines that Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall notify Covered Entity in writing, within five (5) business days after receipt of a request from Covered Entity, make the Protected Health Information specified by Covered Entity available to the Covered Entity so that Covered Entity can respond to any requests by Individuals(s) or other person(s) designated by Covered Entity with a copy of the specified Protected Health Information, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.524 and California Health and Safety Code section 123110. The Parties agree that the provision of Services by Business Associate does not require Business Associate to maintain Protected Health Information in a Designated Record Set.
- 7.2 If any Individual requests access to or an amendment of Protected Health Information directly from Business Associate or its Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) business days of the receipt of the request so that Covered Entity may respond directly to the Individual regarding such request. If Business Associate receives notice that Covered Entity has not timely i) provided access to Individuals requesting access, ii) made amendments to Protected Health Information requested by Individuals, or iii) provided an accounting to Individuals requesting an accounting of disclosure of Protected Health Information, then, Business Associate may respond directly to any such Individuals who ask Business Associate for such access, amendment, or accounting. In such event, Business Associate will notify Covered Entity and Covered Entity will cooperate with Business Associate and shall reimburse Business Associate for all costs and expenses related to any such access granted, amendments made, or accounting provided by Business Associate. Whether access shall be provided or denied shall be determined by Covered Entity.
- 7.3 To the extent that Business Associate maintains Protected Health Information that is subject to access as set forth above in one or more Designated Record Sets electronically and if the Individual requests an electronic copy of such information, Business Associate shall provide Covered Entity with access to the Protected Health Information in the electronic form and format requested by the Individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by the parties, so that Covered Entity may respond directly to the Individual.

8. AMENDMENT OF PROTECTED HEALTH INFORMATION

- 8.1 To the extent Covered Entity determines that any Protected Health Information is maintained by Business Associate or its Subcontractors in a Designated Record Set, and only to the extent that Business Associate maintains such Designated Record Set, Business Associate shall, within twenty (20) calendar days after receipt of a written request from Covered Entity, make any amendments to such Protected Health Information that are requested by Covered Entity, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.526.
- 8.2 If any Individual requests an amendment to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request. Whether an amendment shall be granted or denied shall be determined by Covered Entity.
- 8.3 The Parties agree that the provision of Services by Business Associate does not require Business Associate to maintain Protected Health Information in a Designated Record Set.

9. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

- 9.1 Business Associate shall maintain an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or Subcontractors, as is determined by Covered Entity to be necessary in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.
- 9.1.1 Any accounting of disclosures provided by Business Associate under Section 9.1 shall include:
- (a) The date of the Disclosure;
 - (b) The name, and address if known, of the entity or person who received the Protected Health Information;
 - (c) A brief description of the Protected Health Information Disclosed; and
 - (d) A brief statement of the purpose of the Disclosure.
- 9.1.2 For each Disclosure that could require an accounting under Section 9.1, Business Associate shall document the information specified in Section 9.1.1, and shall maintain the information for six (6) years from the date of the Disclosure, unless a shorter period is permitted under the HIPAA Rules.
- 9.2 Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of a written request from Covered Entity, information collected in accordance with Section 9.1.1 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.
- 9.3 If any Individual requests an accounting of disclosures directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request, and shall provide the requested accounting of disclosures to the Individual(s) within 30 days. The information provided in the accounting shall be in accordance with 45 C.F.R. § 164.528.

10. COMPLIANCE WITH APPLICABLE HIPAA RULES

- 10.1 To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity's performance of such obligation(s).
- 10.2 The parties agree that the provision of Services by Business Associate does not require Business Associate to carrying out any of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164.

11. AVAILABILITY OF RECORDS

- 11.1 Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations.
- 11.2 Unless prohibited by the Secretary, Business Associate shall promptly notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

12. MITIGATION OF HARMFUL EFFECTS

- 12.1 Business Associate shall mitigate, to the extent practicable, any harmful cause of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement that is known to Business Associate.

13. BREACH NOTIFICATION TO INDIVIDUALS

- 13.1 Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors, provide breach notification to the Individual in a manner that permits Covered Entity to comply with its obligations under 45 C.F.R. § 164.404.
- 13.1.1 Business Associate shall notify, subject to the review and approval of Covered Entity, each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of any such Breach.
- 13.1.2 The notification provided by Business Associate shall be written in plain language, shall be subject to review and approval by Covered Entity, and shall include, to the extent possible:
- (a) A brief description of what happened, including the date of the Breach and the date of the Discovery of the Breach, if known;
 - (b) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - (c) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
 - (d) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individual(s), and to protect against any further Breaches; and
 - (e) Contact procedures for Covered Entity to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
- 13.2 Covered Entity, in its sole discretion, may elect to provide the notification required by Section 13.1 and/or to establish the contact procedures described in Section 13.1.2.
- 13.3 Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, which Covered Entity was legally required to incur in complying with Subpart D of 45 C.F.R. Part 164, including costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information; the foregoing expenses shall be considered direct damages but shall be subject to the limitation of direct damages set forth in the Enterprise Services Master Agreement.

14. INDEMNIFICATION

- 14.1 Notwithstanding any provision of this Business Associate Agreement to the contrary, whether expressly or by implication and subject to the provisions of the limitation of liability in the Enterprise Master Services Agreement, Business Associate shall indemnify and hold harmless Covered Entity and its officers and employees by defending Covered Entity and its officers and employees and paying all costs, damages and expenses, including, but not limited to, reasonable attorneys' fees, that a court of competent jurisdiction finally awards against Covered Entity and/or its officers and/or employees or that are included in a settlement approved in writing by Business Associate for all claims related to Business Associate's unauthorized disclosure, misuse or other misappropriation of Covered Entity's Protected Health Information, that is accessible to Business Associate under the Enterprise Master Services Agreement and Work Order, in violation of its obligations under this Business Associate Agreement, provided that Business Associate is provided written notice of the alleged breach and, if feasible, an opportunity to cure the violation within thirty (30) days, or such longer period as agreed to by the parties.

The foregoing indemnity shall be subject to and contingent upon the following: (a) Business Associate has received from the indemnified party prompt written notice of any such claim; and (b) Business Associate shall provide and have the right to control the defense of any such claims at its sole cost and expense.

15. OBLIGATIONS OF COVERED ENTITY

- 15.1 Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the Use or Disclosure of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own Uses and Disclosures accordingly.
- 15.2 Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except to the extent that Business Associate may Use or Disclose Protected Health Information as provided in Sections 2.3, 2.5, and 2.6.
- 15.3 42 U.S.C. §17935(b), Covered Entity shall limit its use, disclosures and requests of Protected Health Information to Business Associate to the Minimum Necessary to accomplish the Services Business Associate is performing for Covered Entity.

16. TERM

- 16.1 Unless modified by Work Order or sooner terminated as set forth in Section 18, the term of this Business Associate Agreement shall be the same as the term of Enterprise Master Services Agreement. This Business Associate Agreement is hereby incorporated by reference into such Enterprise Services Master Agreement.
- 16.2 Notwithstanding Section 17.1, Business Associate's obligations under Sections 11, 14 and 18 shall survive the termination or expiration of this Business Associate Agreement.

17. TERMINATION FOR CAUSE

- 17.1 In addition to and notwithstanding the termination provisions set forth in the Enterprise Services Master Agreement, if either party determines that the other party has violated a material term of this Business Associate Agreement, and the breaching party has not cured the breach or ended the violation within the time specified by the non-breaching party, which shall be reasonable given the nature of the breach and/or violation, the non-breaching party may terminate this Business Associate Agreement.
- 17.2 In addition to and notwithstanding the termination provisions set forth in the Enterprise Services Master Agreement, if either party determines that the other party has violated a material term of this Business Associate Agreement, and cure is not feasible, the non-breaching party may terminate this Business Associate Agreement immediately.

18. DISPOSITION OF PROTECTED HEALTH INFORMATION UPON TERMINATION OR EXPIRATION

Except as provided in Section 18.4, upon the termination for any reason or expiration of this Business Associate Agreement, Business Associate shall return or, if agreed to by Covered entity, shall destroy as provided for in Section 18.3, all Protected Health Information received from Covered Entity, or maintained, or received by Business Associate on behalf of Covered Entity, that Business Associate, including any Subcontractor, still maintains in any form. Business Associate shall retain no copies of the Protected Health Information, except as expressly permitted or required herein.

- 18.1 Destruction for purposes of Sections 18.1 and 18.2 shall mean that media on which the Protected Health Information is stored or recorded has been destroyed and/or electronic media have been cleared, purged, or destroyed in accordance with the use of a technology or methodology specified

by the Secretary in guidance for rendering Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals.

- 18.2 Notwithstanding Sections 18.1 and 18.2, in the event that return or destruction of Protected Health Information is not feasible or Business Associate determines that any such Protected Health Information is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities, Business Associate may retain that Protected Health Information for which destruction or return is infeasible or that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities and shall return or destroy all other Protected Health Information.

18.2.1 Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information, including continuing to use appropriate safeguards and continuing to comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for in Sections 2.5 and 2.6 for so long as such Protected Health Information is retained, and Business Associate shall not Use or Disclose such Protected Health Information other than for the purposes for which such Protected Health Information was retained.

18.2.2 Business Associate shall return or, if agreed to by Covered entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for Business Associate's proper management and administration or to carry out its legal responsibilities.

- 18.3 Business Associate shall ensure that all Protected Health Information maintained, or received by any Subcontractors is returned or, if agreed to by Covered entity, destroyed as provided for in Section 18.3.

19. AUDIT, INSPECTION, AND EXAMINATION

- 19.1 Covered Entity reserves the right to conduct a reasonable inspection of the policies and procedures relating to the Use or Disclosure of Protected Health Information for the purpose determining whether Business Associate is in compliance with the terms of this Business Associate Agreement and any non-compliance may be a basis for termination of this Business Associate Agreement and the Enterprise Services Agreement, as provided for in section 18.

- 19.2 Covered Entity and Business Associate shall mutually agree in advance upon the scope, timing, and location of any such inspection.

- 19.3 At Business Associate's request, and to the extent permitted by law, Covered Entity shall execute a nondisclosure agreement, upon terms and conditions mutually agreed to by the parties.

- 19.4 That Covered Entity inspects, fails to inspect, or has the right to inspect as provided for in Section 19.1 does not relieve Business Associate of its responsibility to comply with this Business Associate Agreement and/or the HIPAA Rules or impose on Covered Entity any responsibility for Business Associate's compliance with any applicable HIPAA Rules.

- 19.5 That Covered Entity's failure to detect, its detection but failure to notify Business Associate, or its detection but failure to require remediation by Business Associate of an unsatisfactory practice by Business Associate, shall not constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Business Associate Agreement or the Enterprise Services Master Agreement.

- 19.6 Section 19.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Covered Entity's Inspection and/or Audit and/or similar review in the Enterprise Services Master Agreement.

20. MISCELLANEOUS PROVISIONS

- 20.1 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with the terms and conditions of this Business Associate Agreement will be adequate or satisfactory to meet the business needs or legal obligations of Business Associate.
- 20.2 HIPAA Requirements. The Parties agree that the provisions under HIPAA Rules that are required by law to be incorporated into this Amendment are hereby incorporated into this Agreement.
- 20.3 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 20.4 Construction. In the event that a provision of this Business Associate Agreement is contrary to a provision of the Enterprise Services Master, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of the Enterprise Services Master applicable underlying Agreement. In the event that a provision of this Business Associate Agreement is contrary to a provision of the Work Order that gives rise to Contractor's status as a Business Associate, the provision of this Business Associate Agreement shall control, unless a provision of the Work Order affords an Individual greater privacy rights, imposes heightened privacy or security protections for Protected Health Information, or provides for more stringent privacy or security requirements.
- 20.5 Regulatory References. A reference in this Business Associate Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- 20.6 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Rules.
- 20.7 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the HIPAA Rules and any other privacy laws governing Protected Health Information.

EVALUATION PROCESS FOR CERTAIN WORK ORDER SOLICITATIONS

Any Work Order Solicitation where the evaluation considers factor(s) other than the lowest cost shall be subject to the following additional requirements.

1. **Protest Policy Review Process.** Any Qualified Contractor that submits a complete and valid response to a Work Order Solicitation ("Qualified Proposer") shall have the following additional rights. It is the responsibility of the Qualified Proposer challenging the decision of a County Department to demonstrate that the Department committed a sufficiently material error in the Work Order Solicitation process to justify invalidation of a proposed Work Order award. Throughout the review process, the County has no obligation to delay or otherwise postpone an award of any Work Order based on a protest. In all cases, the County reserves the right to make an award when it is determined to be in the best interest of the County of Los Angeles to do so. Unless state or federal statutes or regulations otherwise provide, the grounds for the additional review provided in this Exhibit H are limited to a review of the proposed Contractor selection as more fully described below.
2. **Debriefing.** Upon completion of the evaluation, the ISD representative shall notify the remaining Qualified Proposer(s) in writing that ISD is going to award the Work Order to another Qualified Proposer. Upon receipt of the letter, any non-selected Qualified Proposer may submit a written request for a Debriefing within the timeframe specified in the letter. A request for a Debriefing may, in ISD's sole discretion, be denied if the request is not received within the specified timeframe. The purpose of the Debriefing is to compare the requesting Qualified Proposer's response to the Work Order Solicitation document with the evaluation document. The requesting Qualified Proposer shall be debriefed only on its response. Because the Work Order has not been awarded and executed, responses from other Qualified Proposers shall not be discussed, although ISD may inform the requesting Qualified Proposer of its relative ranking. During or following the Debriefing, ISD will instruct the requesting Qualified Proposer of the manner and timeframe in which the requesting Qualified Proposer must notify ISD of its intent to request a Proposed Contractor Selection Review, if the requesting Qualified Proposer is not satisfied with the results of the Debriefing.
3. **Proposed Contractor Selection Review.** Any Qualified Proposer that has timely submitted a notice of its intent to request a Proposed Contractor Selection Review as described in this Section 3 may submit a written request for a Proposed Contractor Selection Review, in the manner and timeframe as shall be specified by ISD. A request for a Proposed Contractor Selection Review may, in ISD's sole discretion, be denied if the request does not satisfy all of the following criteria:
 - a) The request for a Proposed Contractor Selection Review is submitted timely (i.e., by the date and time specified by ISD);
 - b) The person or entity requesting a Proposed Contractor Selection Review asserts in appropriate detail with factual reasons one or more of the following grounds for review:
 - (i) The Department materially failed to follow procedures specified in its Work Order Solicitation document. This includes:
 - (A) Failure to correctly apply the standards for reviewing the proposal format requirements.

- (B) Failure to correctly apply the standards, and/or follow the prescribed methods, for evaluating the proposals as specified in the solicitation document.
- (C) Use of evaluation criteria that were different from the evaluation criteria disclosed in the solicitation document.
- (ii) ISD made identifiable mathematical or other errors in evaluating proposals, resulting in the Qualified Proposer receiving an incorrect score and not being selected as the recommended Contractor.
- (iii) A member of the Evaluation Committee demonstrated bias in the conduct of the evaluation.
- (iv) Another basis for review as provided by state or federal law; and
- c) The request for a Proposed Contractor Selection Review sets forth sufficient detail to demonstrate that, but for the Department's alleged failure, the Qualified Proposer would have been the lowest cost, responsive and responsible bid or the highest-scored proposal, as the case may be.

Upon completing the Proposed Contractor Selection Review, ISD representative shall issue a written decision to the Qualified Proposer within a reasonable time following receipt of the request for a Proposed Contractor Selection Review, and always before the date the Work Order is awarded. The written decision shall additionally instruct the Qualified Proposer of the manner and timeframe for requesting a County Independent Review.

4. County Independent Review Process. Any Qualified Proposer that is not satisfied with the results of the Proposed Contractor Selection Review may submit a written request for a County Independent Review in the manner and timeframe specified by ISD in ISD's written decision regarding the Proposed Contractor Selection Review.

A request for County Independent Review may, in the County's sole discretion, be denied if the request does not satisfy all of the following criteria:

- a) The request for a County Independent Review is submitted timely (i.e., by the date and time specified by ISD); and
- b) The person or entity requesting review by a County Independent Review has limited the request to items raised in the Proposed Contractor Selection Review and new items that (a) arise from ISD's written decision and (b) are one of the appropriate grounds for requesting a Proposed Contractor Selection Review as listed in Section 3 above.

Upon completion of the County Independent Review, the County's Chief Executive Office will forward the report to the ISD representative, who will provide a copy to the Qualified Proposer.