



WILLIAM T FUJIOKA
Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE OPERATIONS CLUSTER

REVISED

DATE: February 2, 2012
TIME: 1:00 p.m.
LOCATION: Kenneth Hahn Hall of Administration, Room 830

AGENDA

Members of the Public may address the Operations Cluster on any agenda item by submitting a written request prior to the meeting.
Three (3) minutes are allowed for each item.

1. Call to order – Ellen Sandt
 - A) **Board Letter – RECOMMENDATION TO APPROVE A SOLE SOURCE CONTRACT FOR WORKERS’ COMPENSATION CLAIMS ADMINISTRATION SYSTEM MAINTENANCE AND HOSTING SERVICES**
CEO Risk Mgmt. – Laurie Milhiser or designee
 - B) **Board Letter – INFORMATION TECHNOLOGY OCCUPATIONAL STUDY AND OTHER COUNTYWIDE CLASSIFICATION ACTIONS**
CEO Class/Comp – Steve Masterson or designee
 - C) **Upcoming IT items**
CIO – Rich Sanchez or designee
 - D) **eCAPS/eHR Update**
Auditor-Controller – Wendy Watanabe or designee
 - E) **Board Letter - AWARD OF PAY PHONE SERVICES CONTRACT**
ISD – Tom Tindall or designee
2. Public Comment

NOTICE OF CLOSED SESSION

CS-1 Litigation Update, Challenge to the 1991 Rate Increase in the Transient
Occupancy Tax – *Rajendra Pershadshingh v. County of Los Angeles*

3. Adjournment



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

DRAFT

February 14, 2012

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Board of Supervisors
GLORIA MOLINA
First District
MARK RIDLEY-THOMAS
Second District
ZEV YAROSLAVSKY
Third District
DON KNABE
Fourth District
MICHAEL D. ANTONOVICH
Fifth District

Dear Supervisors:

**RECOMMENDATION TO APPROVE A SOLE SOURCE CONTRACT
FOR WORKERS' COMPENSATION CLAIM ADMINISTRATION
SYSTEM MAINTENANCE AND HOSTING SERVICES
(ALL DISTRICTS – 3 VOTES)**

CHIEF INFORMATION OFFICER RECOMMENDATION:

APPROVE (X) APPROVE WITH MODIFICATIONS () DISAPPROVE ()

SUBJECT

This letter seeks your Board's approval for a sole source Contract with P&C Claims, Incorporated (P&C), for maintenance and hosting services to support the workers' compensation claims administration system for a base term of two years, with one two-year option to extend the Contract, effective March 1, 2012, at a maximum contract cost of \$1,902,972.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and instruct the Chairman to execute the attached sole source Contract with P&C for application hosting and maintenance services to support the Workers' Compensation Claims Administration System (System). The Contract will be effective for two years, commencing March 1, 2012, with a maximum base contract sum not to exceed \$1,041,496, and includes an option to extend services for one additional two-year term for a maximum of \$861,476, for a total maximum contract sum of \$1,902,972.
2. Delegate authority to the County of Los Angeles (County) Chief Executive Officer (CEO), or his designee, to approve and execute extensions and change notices.
3. Delegate authority to the CEO to execute the software escrow agreement pursuant to the provisions of this Contract.

"To Enrich Lives Through Effective And Caring Service"

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Intra-County Correspondence Sent Electronically Only***

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Contractor, P&C, is the successor company to GenSource, which was the original contractor that provided, installed, custom designed, maintained, and hosted the System. Currently, 300 users, including the County's workers' compensation third party claim administrators (TPAs), medical management and cost containment contractors, short-term and long-term disability benefit administrator, CEO Risk Management Branch, County Counsel, and other County departments depend on the System's applications to manage the County's workers' compensation claim administration program, process indemnity payments to injured employees, issue medical payments to healthcare and ancillary service providers, generate State-mandated benefit notices, and issue reports required by State and Federal entities. Failure to issue timely payments will subject the County to costly penalties and potential loss of its certificate to self-insure.

Implementation of Strategic Plan Goals

The recommended actions are consistent with the County's Strategic Plan Goal 1, Operational Effectiveness, by ensuring continuous and effective service delivery systems. The contract and system are in accordance with the current CEO Business Automation Plan (BAP).

FISCAL IMPACT/FINANCING

The maximum base term contract cost will be \$1,041,496, which is itemized as follows:

- A maximum \$494,496 total for system maintenance and support, including software upgrades to support 300 users;
- A maximum \$207,000 (\$103,500 per year) for State of California mandated electronic transfer of workers' compensation claims data from the system to the California Department of Industrial Relations (DIR). The Contract assigns responsibility to P&C for ensuring the information collected by the County's TPAs is transferred to DIR;
- A maximum \$40,000 (\$20,000 per year) for user training, as may be required by the County; and
- A maximum of \$300,000 in funding for customization and upgrade to the ClaimsVision system

In the event the County elects to extend the Contract for services beyond the base term, the cost for the second two-year term would be \$861,476. The maximum cost will not exceed \$1,902,972 which will be the total for four years.

The base term and any contract extension costs will be paid out of the Workers' Compensation Trust Fund.

Expenditures for the Fiscal Year 2010-11 contract year were \$356,932. This included costs for the following:

- \$240,000 (\$20,000 per month) for system maintenance;
- \$103,500 for electronic transfer of workers' compensation claims data to the DIR; and
- \$13,432 for optional work/customization.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On March 1, 2007, your Board approved a sole source Contract with GenSource, a Division of StrataCare Inc. Effective December 31, 2009, all assets of GenSource were assigned to P&C.

The Contractor, P&C, is a recognized leader in the workers' compensation information system industry. The firm has an extensive knowledge of the County's workers' compensation program, and has provided and continues to provide software modifications and upgrades at minimal expense. All users agree that while the existing system is not state-of-the-art, it has continued to deliver consistent and reliable performance since 1985. Until an economical replacement system or sufficient funding for an improved system can be identified, it is more cost-effective to maintain the current system.

The Contractor, P&C, has developed an upgrade to their claims administration system which is being marketed under the name ClaimsVision. They are offering this product to existing users at a reduced rate if the upgrade is purchased in 2012. The reduced rate is approximately one-third of the cost of the ClaimsVision system to new clients. Allowing P&C to implement their ClaimsVision system now, would not only pave the way for an easier transition to other vendor systems in the future, but there is also a backup system (GenIris), built in, with full support from P&C, while we make this transition should anything go awry. CEO Information Technology Services estimates a substantial savings in both work hours and conversion costs if we proceed with this proposal at this time.

The CEO Risk Management Branch intends to begin the Request for Proposals (RFP) process immediately. Based upon the Department's prior experience with complex information technology contracts, it is estimated that the solicitation process could take up to a year and the transition process up to an additional year before a new system is fully tested and accepted. Therefore, the extension proposed at this time will allow P&C to complete the conversion of the current system to the upgraded ClaimsVision, and the continuation of services under this system if, and until, a replacement system is implemented.

The attached Contract was approved as to form by County Counsel and reviewed by the Chief Information Officer (CIO Analysis Attached). Both concur with the Department's recommendations.

CONTRACTING PROCESS

On December 9, 2011, we notified your Board of our intent to negotiate a sole source Contract with P&C. The system software is proprietary to P&C; therefore, no other vendor can provide the necessary maintenance and support.

IMPACT ON CURRENT SERVICES

Continuation of this system is essential to ensure timely and accurate issuance of County workers' compensation benefits and payments, and to avoid potential imposition of State penalties for late benefit payments. It will allow the Department to continue to assess and analyze its long-term system strategies and requirements before a replacement workers' compensation claims administration system is implemented.

CONCLUSION

Upon approval by your Board, please return two signed originals of the Contract and one adopted copy of the letter to the CEO Risk Management Branch, attention Laurie Milhiser, County Risk Manager.

Respectfully submitted,

Reviewed by:

WILLIAM T FUJIOKA
Chief Executive Officer

RICHARD SANCHEZ
Chief Information Officer

WTF:ES:RS
LM:RC:KR:tv

Attachments

c: Executive Officer, Board of Supervisors
County Counsel
Chief Information Officer

Yes	No	Question
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is this project consistent with the currently approved Department Business Automation Plan? The project is identified in the Department's FY 2011-12 Business Automation Plan.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Does the project's technology solution comply with County of Los Angeles IT Directions Document? The Department's Workers' Compensation Solution complies with IT Directions document by conducting government electronically to improve the delivery of services.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Does the project technology solution comply with preferred County of Los Angeles IT Standards? The Department's Workers' Compensation Solution as a hosted system complies with applicable IT Standards.

Project/Contract Description:

The Chief Executive Office (CEO) is seeking Board approval for a Contract with P&C Claims, Inc. (P&C) for a hosted software solution for administration and management of workers' compensation claims. The Contract's maximum contract sum is \$1,902,972 with a base term of two (2) years with one (1) two-year option. The Contract will provide services to:

- The County's four Third Party Administrators for claims administration of 10,500 new workers' compensation claims annually and 24,000 open claims; and
- County employees to process, monitor, and report on the workers' compensation claims.

Background:

This Contract is a continuation of services provided under Contract 76027 approved by your Board on February 13, 2007 with P&C, formerly GenSource Corporation (GenSource), for this workers' compensation solution. Prior a Board Agreement, workers' compensation claim administration, hosting services, software licenses, and maintenance services were obtained through purchase orders contracts processed under the authority of the Internal Services Department.

Project Justification/Benefits:

P&C, through GenSource, has provided consistent and reliable workers' compensation claim services to the County since 1985. Approval of this Contract will provide continuation of these services, while CEO Risk Management Administration develops and constructs a comprehensive enterprise information technology (IT) strategy to support all of its risk management programs. Acquiring and implementing a new workers' compensation administration solution will result in additional licensing and implementation costs, and may not be compatible with this future risk management IT strategy.

Project Metrics:

The Contract clearly identifies the service levels and system performance metrics to be provided by the Contractor for the Contract term. It also specifies that data ownership remains with the County.

Impact on Service Delivery or Department Operations, if Proposal is Not Approved:

If the Contract is not approved, the Contractor's workers' compensation claim administrative services will expire February 28, 2012.

Alternatives Considered:

None.

Project Risks:

The CEO Risk Management Administration mitigates the hosting and performance risks by utilizing the service levels and system performance metrics specified in the contract, as well as providing executive sponsorship, stable project staffing with clear roles and responsibilities. The County's Chief Information Security Officer reviewed the Amendment and requested that a "security breach and notification" paragraph be added to the Contract. CIO will continue to work with P&C Claims to ensure that sensitive data is encrypted.

Risk Mitigation Measures:

The CEO Risk Group utilizes the risk mitigation measures described above and will continue to monitor these risks throughout the Contract.

Financial Analysis:

The maximum contract sum for the 2 year base term is \$1,041,496 with \$861,476 for the one two-year option year term. The total cost of the Contract is \$1,902,972 with each of the service component costs for the Contract delineated in the Table below:

Maintenance and Support Services	\$1,008,972
State Mandated EDI Data Transmission Services	\$414,000
Training Services	\$80,000
Optional Services	\$400,000
Total Services	\$1,902,972

The total funding of \$1,902,972 for this Contract is provided by the Workers' Compensation Trust Fund.

CIO Concerns:

None.

CIO Recommendations:

My Office supports this action and recommends approval by the Board.

CIO APPROVAL

Date Received: January 31, 2012

Prepared by: James Hall

Date: January 31, 2012

Approved: _____

Date: _____

SOLE SOURCE CHECKLIST

Check (√)	JUSTIFICATION FOR SOLE SOURCE CONTRACTS
	Identify applicable justification and provide documentation for each checked item.
	➤ Only one bona fide source for the service exists; performance and price competition are not available.
	➤ Quick action is required (emergency situation).
	➤ Proposals have been solicited but no satisfactory proposals were received.
	➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.
	➤ Maintenance service agreements exist on equipment which must be serviced by the authorized manufacturer's service representatives.
	➤ It is most cost-effective to obtain services by exercising an option under an existing contract.
✓	➤ It is in the best interest of the County e.g., administrative cost savings, excessive learning curve for a new service provider, etc.
	➤ Other reason. Please explain:
Deputy Chief Executive Officer, CEO	Date

**SOLE SOURCE JUSTIFICATION
FOR
WORKERS' COMPENSATION CLAIMS ADMINISTRATION
SYSTEM AND HOSTING SERVICES CONTRACT**

- ✓ This sole source contract is fiscally responsible. Chief Executive Office (CEO) staff evaluated the 5-year cost of converting, migrating, and maintaining a new Workers' Compensation Claims Administration and Information System (WCCAIS), and estimated the total cost to be \$4,000,000 - \$4,750,000. The evaluation utilized the WCCAIS transition costs of a large public agency and applied County of Los Angeles (County) requirements to those costs. Supporting documentation is available for review. The CEO staff estimates the maximum 5-year cost of the proposed contract to be \$2,291,456. That cost includes conversion and migration to a Microsoft.NET framework product. Should the County elect not to migrate to a new platform, the estimated 5-year cost would be \$1,850,000.
- ✓ This sole source contract maximizes operational effectiveness by allowing the uninterrupted provision of mandatory workers' compensation benefits and ensures mandatory Federal and State reporting compliance. In addition, the proposed move to a new framework can be completed and tested with no system down time and no duplication of cost.
- ✓ Current resource limitations in the CEO Risk Management Branch (RMB) and CEO Information Technology Services (ITS) will hamper the ability to guarantee multiple WCCAIS interfaces are operational.
- ✓ Current resource limitations in CEO RMB and CEO ITS will constrain training availability. Such training is critical when moving to a completely new WCCAIS and will be required for 300 users. The user groups will have different needs and require different training.
- ✓ The conversion and migration from one P&C Claims, Inc., product to another will limit cost, down time, and uncertainties inherent in large information technology migrations. In addition, CEO ITS believes that upgrading to a ".NET" framework will ease transitioning to a comparative product in the future.

[REVISED DRAFT FOR 2/14/12 BOARD AGENDA]



CONTRACT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

P & C CLAIMS, INCORPORATED

FOR

SOFTWARE MAINTENANCE AND

APPLICATION HOSTING SERVICES

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**CONTRACT BETWEEN
COUNTY OF LOS ANGELES
AND
P&C CLAIMS, INC. FOR
SOFTWARE MAINTENANCE AND APPLICATION HOSTING SERVICES**

This Contract and Exhibits is made and entered into as of _____, by and between the County of Los Angeles, hereinafter referred to as County and P&C Claims, Incorporated, a Delaware corporation, hereinafter referred to as Contractor.

RECITALS

WHEREAS, the Board approved Contract No. 76027, a sole source contract, effective March 1, 2007, with GenSource Corporation, a division of StrataCare, Inc. for software maintenance and application hosting services (collectively, "Services") for a workers' compensation claims administration system (the "System") for the processing and administration of workers compensation claims;

WHEREAS, the assets of GenSource, a division of StrataCare, Inc. were acquired by Contractor and Contract No. 76027 was assigned from GenSource to Contractor effective as of December 31, 2009;

WHEREAS, the System was designed for County use and subsequent appropriate modifications were made to meet County's requirements;

WHEREAS, Contract No. 76027 will expire on February 29, 2012;

WHEREAS, the County is assessing its future System needs and requirements in relation to all of its existing automated claims systems;

WHEREAS, final determination for future system(s) is not expected to be finalized until after Contract 76027 expires;

WHEREAS, until a final determination is made, the County has determined that maintaining the current System is more cost effective than implementing a new system;

WHEREAS, the County is satisfied with the System and Services provided by Contractor, and Contractor is willing to continue to provide the Services;

WHEREAS, the County has determined that the Services are of a technical nature and is unable to recruit qualified personnel with the requisite training, knowledge, or experience to perform the Services; and

WHEREAS, this Contract is authorized under California Government Code Section 31000, which authorizes the Board of Supervisors to contract for special services.

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

Exhibits A, B, C, D, E, F, G, H, I, and J are attached to and form a part of this Contract. 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 base Contract and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Contract and then to the Exhibits according to the following priority:

EXHIBIT A - Statement of Work

EXHIBIT B - Payment Schedule

EXHIBIT C - Contractor's EEO Certification

EXHIBIT D - County's Administration

EXHIBIT E - Contractor's Administration

EXHIBIT F - Contractor Employee Acknowledgment, Confidentiality and Copyright Assignment Agreement

EXHIBIT G - Jury Service Agreement

EXHIBIT H - Escrow Agreement

EXHIBIT I - Safely Surrendered Baby Law

EXHIBIT J - Contractor's Obligation as a "Business Associate" Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH)

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersedes all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to Subparagraph 8.4 (Change Notices and Amendments) 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 shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used.

2.1 **Acceptance:** As used herein, "Acceptance" shall mean County's written approval of any tasks, subtasks, deliverables, goods, services or other

work provided by Contractor to County, consistent with the requirements of Exhibit A (Statement of Work).

- 2.2 **Confidential Information:** As used herein, “Confidential Information” shall mean any data or information, in any format, and includes sensitive financial information, any County data, and any other information otherwise deemed confidential by County or by applicable Federal, State or local law.
- 2.3 **Contract:** As used herein, “Contract” shall mean the agreement executed between the County and Contractor that sets forth the terms and conditions for the issuance and performance of Exhibit A (Statement of Work).
- 2.4 **Contractor:** As used herein, “Contractor” shall have the meaning set forth in the Preamble.
- 2.5 **Contractor Project Manager:** As used herein, “Contractor Project Manager” shall have the meaning specified in Subparagraph 7.1 (Contractor Project Manager).
- 2.6 **County Contract Administrator:** As used herein, “County Contract Administrator” shall have the meaning specified in Subparagraph 6.1 (County Contract Administrator).
- 2.7 **County Project Director:** As used herein, “County Project Director” shall have the meaning specified in Subparagraph 6.2 (County Project Director).
- 2.8 **County Project Manager:** As used herein, “County Project Manager” shall have the meaning specified in Subparagraph 6.3 (County Project Manager).
- 2.9 **Day(s):** As used herein, whether singular or plural, “Day(s)” shall mean calendar day(s) unless otherwise specified.
- 2.10 **Deficiency(ies):** As used herein, whether singular or plural, “Deficiency(ies)” shall mean and include defect(s) in design, development, programming, implementation, materials, or workmanship; error(s); omission(s); deviation(s) from published or mutually agreed upon standards, from any of the Specifications, or from any County-approved Deliverables; or other problem(s) which result in the System not performing in accordance with the provisions of this Contract, including, without limitation, the Specifications.

- 2.11 **Deliverable(s):** As used herein, “Deliverable(s) shall mean any task, subtask, item, and/or a service or other consideration to be provided by Contractor under this Contract.
- 2.12 **Department Head:** As used herein, “Department Head” shall mean the Chief Executive Officer (CEO) of the County of Los Angeles.
- 2.13 **Documentation:** As used herein, “Documentation” shall mean any and all written and electronic materials provided or made available by Contractor under this Contract, including, but not limited to, documentation relating to software specifications and functions, training course materials, Specifications including System requirements, technical manuals, handbooks, flow charts, technical information reference materials, user manuals, operating manuals, quick reference guides, FAQs, and all other instructions and reference materials relating to the capabilities, operation, installation and use of the System and/or applicable components.
- 2.14 **Effective Date:** As used herein, “Effective Date” shall mean the date of execution of this Contract by County and the authorized representative(s) of the Contractor.
- 2.15 **Fiscal Year:** As used herein, “Fiscal Year” shall mean the twelve (12) month period beginning July 1st and ending the following June 30th.
- 2.16 **Maintenance Fees:** As used herein, “Maintenance Fees” shall mean the applicable fees to be paid by County to Contractor for System Maintenance pursuant to Exhibit B (Payment Schedule) and shall include any or all of the following: application software maintenance, administrative support services, backups, recovery, software licenses, computer hardware and overhead costs and third party software maintenance.
- 2.17 **Optional Work:** As used herein, “Optional Work” shall mean software enhancements and/or professional services, which may be provided by Contractor upon County’s request and approval in accordance with Task 3 (General Customizations) of Exhibit A (Statement of Work).
- 2.18 **Source Code:** As used herein, “Source Code” shall mean the source code for the application software, to the extent available, developed for or licensed to County under this Contract by Contractor, including core application and application modifications, together with Documentation and other proprietary information related to such source code.
- 2.19 **Specifications:** As used herein, “Specifications” shall mean the functional application program specifications set forth in Exhibit A (Statement of Work).

- 2.20 **System:** As used herein, "System" shall mean all software, hardware, third party software, conversion, interfaces, databases and services described in this Contract and as otherwise agreed to in writing by Contractor and County pursuant to Subparagraph 8.4 (Change Notices and Amendments) collectively comprising the workers' compensation claims administration system. Reference to the System may include one or more components or modules thereof or the entire System.
- 2.21 **System Maintenance:** As used herein, "System Maintenance" shall mean the services specified in Subparagraph 3.1.1.
- 2.22 **Transition License:** As used herein, "Transition License" shall mean the license to the application software granted by Contractor following termination or expiration of this Contract.
- 2.23 **Transition Period:** As used herein, "Transition Period" shall mean the period up to two (2) years after the termination or expiration of this Contract in which the Contractor shall grant to County license to the application software and Work product
- 2.24 **User:** As used herein, "User" shall mean any person or entity authorized by County to access or use the System or a System component.
- 2.25 **Weekday Minimum Maintenance Period:** As used herein, "Weekday Minimum Maintenance Period" shall mean the period between the hours of 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday excluding the holidays observed by Contractor. Contractor will provide a list of holidays by November 1st, for the next calendar year.
- 2.26 **Work:** As used herein, "Work" shall mean any and all tasks, subtasks, deliverables, goods, services and other work provided, or to be provided, by or on behalf of Contractor pursuant to this Contract, including System components, System implementation services, System Maintenance and Optional Work.
- 2.27 **Work Order:** As used herein, "Work Order" shall mean the terms of any Optional Work agreed to by County and Contractor. Such Work Order shall include the statement of work, procedures to be used by Contractor to fulfill work requirements, and the cost. Work Orders shall be paid from the annual Contingency Fund that is specified in Exhibit B (Payment Schedule).

3.0 WORK

3.1 Pursuant to the provisions of this Contract, the Contractor shall fully perform, complete and deliver on time all tasks, deliverables, goods, services, and other work as set forth in Exhibit A (Statement of Work).

3.1.1 System Maintenance

Contractor shall provide to County services relating to the maintenance and support of the System, including System maintenance and support services throughout the term of this Contract.

Upon termination or expiration of this Contract, Contractor shall provide to County a no cost Transition License during the Transition Period.

3.1.2 Hosting Services

Contractor shall provide a secure and efficient environment to house County's workers compensation administration application and database. Contractor shall:

1. Provide dedicated database server(s) for County use only, not shared with other Contractor clients; and
2. Provide adequate data storage to accommodate County's current and future needs.

3.1.3 Optional Work

Upon County's request and mutual approval pursuant to the terms of this Contract, Contractor shall provide Optional Work, including software enhancements, consisting of additional software and/or Customizations in the form of solution modifications and additional interfaces, and professional services, consisting of consulting services and/or additional training at the applicable hourly rates set forth in Exhibit B (Payment Schedule). Such Optional Work shall be accomplished by means of a Work Order.

3.2 If the Contractor provides any tasks, deliverables, goods, services, or other work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of the Contractor, and the Contractor shall have no claim whatsoever against the County.

4.0 TERM OF CONTRACT

- 4.1 The term of this Contract shall commence on March 1, 2012 and shall expire two (2) years thereafter, unless sooner terminated or extended, in whole or in part, as provided in this Contract.
- 4.2 The County shall have the sole option to extend this Contract term for one (1) additional two-year period, for a maximum Contract term of four (4) years. Each such option and extension shall be exercised at the sole discretion of the CEO or his designee, subject to Subparagraph 8.4 (Change Notices and Amendments) of this Contract.

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.

- 4.3 The Contractor shall notify County when this Contract is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, the Contractor shall send written notification to the County at the address provided in Exhibit D (County's Administration).

5.0 CONTRACT SUM

- 5.1 The maximum Contract sum under the terms of this Contract shall be the total monetary amount payable by County to Contractor for the provision of Services specified herein in accordance with Exhibit B (Payment Schedule) of this Contract. For the base term of the Contract, the period March 1, 2012 through February 28, 2014, the maximum Contract sum shall be \$1,041,496. If County exercises the option period, the costs shall be as set forth in Exhibit B (Payment Schedule) of this Contract.
- 5.2 The Contractor shall 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 the 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, shall only occur with the County's express prior written approval.
- 5.3 The Contractor shall maintain a system of record keeping that will allow the Contractor to determine when it has incurred seventy-five percent (75%) of the total contract authorization under this Contract. Upon occurrence of this event, the Contractor shall send written notification to

the County at the address herein provided in Exhibit D (County's Administration).

5.4 **No Payment for Services Provided Following Expiration/Termination of Contract**

The Contractor shall have no claim against the County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the Contractor after the expiration or other termination of this Contract. Should the Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Contract shall not constitute a waiver of County's right to recover such payment from the Contractor. This provision shall survive the expiration or other termination of this Contract.

5.5 **Invoices and Payments**

5.5.1 Contractor shall invoice County only for providing the tasks, deliverables, goods, services, and other work specified in Exhibit A (Statement of Work) and elsewhere hereunder. Contractor shall prepare the invoices, which shall include the charges owed to the Contractor by County under the terms of this Contract. Contractor's payments shall be as provided in Exhibit B (Payment Schedule), and the Contractor shall be paid only for the tasks, deliverables, goods, services, and other work approved in writing by the County. If County does not approve work in writing, no payment will be due to the Contractor for that work.

5.5.2 Contractor's invoices shall be priced in accordance with Exhibit B (Payment Schedule).

5.5.3 The Contractor's invoices shall contain the information set forth in Exhibit A (Statement of Work) describing the tasks, deliverables, goods, services, work hours and facility and/or other work for which payment is claimed.

5.5.4 Contractor shall submit the monthly invoices to County by the fifteenth (15th) calendar day of the month following the month of service.

5.5.5 All invoices under this Contract shall be submitted in duplicate to the County Project Manager.

5.5.6 All invoices submitted by the Contractor for payment shall have the written approval of the County Project Director or designee

prior to any payment thereof. In no event shall County be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld, and in no instance will such approval take more than thirty (30) days from receipt of properly prepared invoices by County.

5.5.7 If this Contract is terminated by County for default pursuant to Subparagraph 8.42 (Termination for Default), then, without excusing such default, and without prejudice to any other rights of County in this Contract or as provided by law, Contractor shall be entitled to receive payment for all work performed prior to the termination date and approved by County.

5.5.8 If termination by County for default is a result of failure by Contractor to achieve Deliverables as thereafter determined by County, as set forth in Exhibit A (Statement of Work), and such failure is not caused by an unreasonable delay or unreasonable lack of cooperation by County, then County shall be obligated to Contractor for the sums related to work performed and approved by County. The County's license to use the System shall remain in effect following the termination of this Contract.

5.6 Notwithstanding any other provision of this Contract, and in addition to the provisions of Subparagraph 5.5 (Invoices and Payments) and Attachment I (Performance Standards Requirements and Service Level Agreement) of Exhibit A (Statement of Work), and to any rights of County given by law or provided in this Contract, County may upon written notice to Contractor may withhold payment for any Deliverable or other services while Contractor is in default hereunder, or at any time that Contractor has not provided a County-approved Deliverable. This provision shall not be deemed to impair any claims that Contractor may have against County or Contractor's rights to assert such claims pursuant to Subparagraph 8.52 (Dispute Resolution Procedure), provided that such default or non-delivery is not caused by an unreasonable delay or unreasonable lack of cooperation by County.

6.0 ADMINISTRATION OF CONTRACT – COUNTY

A listing of all County Administration referenced herein is shown in Exhibit D (County's Administration). County shall notify Contractor in writing (which may be in the form of email) of any change in the names or addresses shown.

6.1 County Contract Administrator

Responsibilities of the County Contract Administrator shall include:

- 6.1.1 Making changes in the terms and conditions of this Contract in accordance with Subparagraph 8.4 (Change Notices and Amendments); and
- 6.1.2 Providing direction to Contractor in the areas relating to County policy, information requirements and procedural requirements.

6.2 **County Project Director**

Responsibilities of the County Project Director shall include:

- 6.2.1 Authoring and approving any and all Work Orders and invoices and ensuring that all required components are delivered by Contractor;
- 6.2.2 Providing directions to Contractor on all business assessment needs;
- 6.2.3 Ensuring that the objectives of this Contract are met.

The County Project Director is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate County in any respect whatsoever.

6.3 **County Project Manager**

Responsibilities of the County Project Manager shall include:

- 6.3.1 Overseeing the day-to-day administration of this Contract;
- 6.3.2 Meeting with Contractor Project Manager on a regular basis;
- 6.3.3 Inspecting any and all tasks, deliverables, goods services, or other work provided by or on behalf of Contractor.

The County Project Manager is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate County in any respect whatsoever.

7.0 **ADMINISTRATION OF CONTRACT – CONTRACTOR**

7.1 **Contractor Project Manager**

- 7.1.1 The Contractor Project Manager is designated in Exhibit E (Contractor’s Administration). Contractor shall notify County in

writing of any change in the name or address of the Contractor Project Manager.

- 7.1.2 The Contractor Project Manager shall be responsible for the Contractor's day-to-day activities as related to this Contract and shall coordinate with the County Project Manager on a regular basis.

7.2 **Background and Security Investigations**

- 7.2.1 Contractor staff performing work under this Contract shall undergo and pass a background investigation to the satisfaction of County as a condition of beginning and continuing to perform services under this Contract. Such background investigation may include, but shall not be limited to, criminal conviction information obtained through fingerprints submitted to the California Department of Justice. The fees associated with the background investigation shall be at the expense of the Contractor, regardless if the member of Contractor's staff passes or fails the background investigation. No person employed by the Contractor and assigned to the County shall have a high-grade misdemeanor and/or misdemeanor theft conviction or any felony convictions. Contractor shall be under a continuing obligation to disclose any subsequent criminal record information to the County and to remove an employee who in the future incurs such record from performing work under this Contract at County's request.
- 7.2.2 If a member of Contractor's staff does not pass the background investigation, County may request that the member of Contractor's staff be immediately removed from performing services under the Contract at any time during the term of the Contract.
- 7.2.3 County retains the right to conduct its own background investigation of Contractor staff performing work under this Contract at County's sole cost. County will not provide to Contractor's staff any information obtained through County's background investigation.
- 7.2.4 County, in its sole discretion, may immediately deny or terminate facility access to any member of Contractor's staff that does not pass such investigation to the satisfaction of the County or whose background or conduct is incompatible with County facility access.

7.2.5 Disqualification of any member of Contractor's staff pursuant to this Subparagraph 7.2 shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

7.3 **Confidentiality**

7.3.1 Contractor shall maintain the confidentiality of all records and 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.

7.3.2 Contractor shall 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 Subparagraph 7.3, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Subparagraph 7.3 shall be conducted by Contractor and approved by County. Notwithstanding the preceding sentence, County shall 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 shall 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 shall 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.

7.3.3 Contractor shall inform all of its officers, employees, agents and subcontractor providing services hereunder of the confidentiality provisions of this Contract.

7.3.4 Contractor shall cause each employee providing services covered by this Contract to sign and adhere to the provisions of Exhibit F ("Contractor Employee Acknowledgment, Confidentiality, and Copyright Assignment Agreement").

- 7.3.5 Contractor shall cause each non-employee providing services covered by this Contract to sign and adhere to the provisions of Exhibit F-1 (“Contractor Non-Employee Acknowledgment, Confidentiality, and Copyright Assignment Agreement”).

8.0 STANDARD TERMS AND CONDITIONS

8.1 Assignment and Delegation

- 8.1.1 The Contractor shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. Notwithstanding the foregoing, a merger by Contractor with or the sale of all or substantially all of Contractor’s assets to a third party shall not constitute an assignment, provided that the third party agrees in writing that it shall be bound by all of the terms and conditions of this Contract (a “Permitted Transfer”). For purposes of this Paragraph, County consent shall require a written amendment to the Contract, which is formally approved and executed by the parties. Any payments by County to any approved delegate or assignee on any claim under this Contract shall be deductible, at County’s sole discretion, against the claims, which Contractor may have against the County.
- 8.1.2 Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event of any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Contract, except that this provision shall not apply to a Permitted Transfer.
- 8.1.3 Any assumption, assignment, delegation, or takeover of any of the Contractor’s duties, responsibilities, obligations, or performance of the 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 without County’s express prior written approval, shall be a material breach of this Contract which may result in the termination of the Contract. In the event of such

termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

8.2 **Authorization Warranty**

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

8.3 **Budget Reductions**

In the event that the County's Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County Contracts, the County reserves the right to reduce its payment obligation under this Contract correspondingly for that fiscal year and any subsequent fiscal year during the term of this Contract (including any extensions), and the services to be provided by the Contractor under this Contract shall also be reduced correspondingly. The County's notice to the Contractor regarding said reduction in payment obligations shall be provided within thirty (30) calendar days of the Board's approval of such actions. The Contractor shall have thirty (30) calendar days after receipt of such notice within which to terminate this Contract and receive payment for all work performed by Contractor and approved by County prior to the termination date. Except as set forth in the preceding sentence, the Contractor shall continue to provide all of the services set forth in this Contract.

8.4 **Change Notices and Amendments**

No representative of either County or Contractor, including those named in this Contract, is authorized to make any changes in any of the terms, obligations, or conditions of this Contract, except through the procedures set forth in this Subparagraph 8.4. County reserves the right to change any portion of the Work required under this Contract and to any other provisions of this Contract. All such changes shall be accomplished only as provided in this Subparagraph 8.4.

8.4.1 **Change Notices**

For any change requested by County which does not materially affect the scope of Work, term, payments, or any term or condition of the Contract, including expenditure of Contingency

Fund, a written notice of such change (“Change Notice”) shall be prepared and signed by the Contractor and the County Contract Administrator. All such changes must be approved in advance by the parties.

8.4.2 Amendments

1. For any change which affects the scope of work, term, Contract Sum, payments, or any term or condition included under this Contract, a negotiated Amendment shall be prepared and approved by the County’s Board of Supervisors and executed by authorized representatives of the County and the Contractor.
2. The County’s Board of Supervisors or CEO or designee may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. The County reserves the right to add and/or change such provisions as required by the Board of Supervisors or CEO. To implement such changes, an Amendment to the Contract shall be prepared and executed by the Contractor and the CEO or his designee.
3. The CEO or his designee may at his sole discretion, authorize extensions of time as defined in Paragraph 4.0 (Term of Contract). The Contractor agrees that such extensions of time shall not change any other term or condition of this Contract during the period of such extensions. To implement an extension of time, an Amendment to the Contract shall be prepared and executed by the Contractor and CEO.

8.5 Complaints

The Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

- 8.5.1 Within ten (10) business days after Contract Effective Date, the Contractor shall provide the County with the Contractor’s policy for receiving, investigating and responding to user complaints.
- 8.5.2 The County will review the Contractor’s policy and provide the Contractor with approval of said plan or with requested changes.
- 8.5.3 If the County requests changes in the Contractor’s policy, the Contractor shall make such changes and resubmit the plan within five (5) business days for County approval.

- 8.5.4 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the County for approval before implementation.
- 8.5.5 The Contractor shall preliminarily investigate all complaints and notify the County Project Manager of the status of the investigation within five (5) business days of receiving the complaint.
- 8.5.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.
- 8.5.7 Copies of all written responses shall be sent to the County Project Manager and County Project Director within three (3) business days of mailing to the complainant.

8.6 Compliance with Applicable Law

- 8.6.1 In the performance of this Contract, Contractor shall 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 Contract are hereby incorporated herein by reference.
- 8.6.2 Contractor shall 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 sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Subparagraph 8.6 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall 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 shall 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 shall 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.

8.7 **Compliance with Civil Rights Laws**

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, USC Sections 2000(e)(1) through 2000(e)(17), to the end that no person shall, 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 Contract or under any project, program, or activity supported by this Contract. The Contractor shall comply with Exhibit C (Contractor's EEO Certification).

8.8 **Compliance with the County's Jury Service Program**

8.8.1 Jury Service Program:

This Contract 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, a copy of which is attached as Exhibit G and incorporated by reference into and made a part of this Contract.

8.8.2 Written Employee Jury Service Policy

1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury services. 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, "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-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of the 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-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall also be subject to the provisions of this Paragraph. The provisions of this Paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

3. If the Contractor is not required to comply with the Jury Service program when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and the Contractor shall immediately notify the County if the Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if the Contractor no longer qualifies for an exception to the Jury Service Program. In either event, the Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate, to the County's satisfaction that the Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that the Contractor continues to qualify for an exception to the program.
4. Contractor's violation of this Subparagraph 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 and/or bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

8.9 **Conflict of Interest**

8.9.1 No County employee whose position with the County enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall 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

8.9.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. 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 shall immediately make full written disclosure of such facts to the County. Full written disclosure shall 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 subparagraph shall be a material breach of this Contract.

8.10 **Consideration of Hiring County Employees Targeted for Layoff/Or Re-Employment List**

Should the Contractor require additional or replacement personnel after the effective date of this Contract to perform the services set forth herein, the Contractor shall 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 Contract.

8.11 **Consideration of Hiring GAIN/GROW Program Participants**

8.11.1 Should the Contractor require additional or replacement personnel after the effective date of this Contract, the Contractor shall 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 shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor.

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

8.12 **Contractor Responsibility and Debarment**

8.12.1 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 contract. It is the County's policy to conduct business only with responsible Contractors.

8.12.2 Chapter 2.202 of the County Code

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the 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 the Contract, 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.

8.12.3 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.

8.12.4 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 shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall 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 shall 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 shall be presented to the Board of Supervisors. The Board of Supervisors shall 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.
5. 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 shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

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

8.12.5 Subcontractors of Contractor

These terms shall also apply to subcontractors of County Contractors.

8.13 **Contractor's Acknowledgment of County's Commitment to the Safely Surrendered Baby Law**

The 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" poster 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. The County's Department of Children and Family Services will supply the Contractor with the poster to be used. Information on how to receive the poster can be found on the internet at www.babysafela.org.

8.14 **Contractor's Warranty of Adherence to County's Child Support Compliance Program**

8.14.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through contract 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.

8.14.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Contract to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Contract maintain in 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 shall 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).

8.15 **County's Quality Assurance Plan**

The County or its agent will evaluate the Contractor's performance under this Contract on not less than an annual basis. Such evaluation will include assessing the Contractor's compliance with all Contract terms and conditions and performance standards. Contractor deficiencies which the County determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors.

The report 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 Contract or impose other penalties as specified in this Contract.

8.16 **Damage to County Facilities, Buildings or Grounds**

8.16.1 The Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings, or grounds caused by the Contractor or employees or agents of the Contractor. Such repairs shall be made immediately after the

Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

- 8.16.2 If the Contractor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by the County, for such repairs shall be repaid by the Contractor by cash payment upon demand.

8.17 **Employment Eligibility Verification**

- 8.17.1 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 Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees providing 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 shall retain all such documentation for all covered employees for the period prescribed by law.

- 8.17.2 The Contractor shall 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 Contract.

8.18 **Facsimile Representations**

The County and Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Change Notices and Amendments prepared pursuant to Subparagraph 8.4, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Change Notices and Amendments to this Contract, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

8.19 **Fair Labor Standards**

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall 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.

8.20 **Force Majeure**

8.20.1 Neither party shall be liable for such party's failure to perform its obligations under and in accordance with this Contract, 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 Subparagraph as "force majeure events").

8.20.2 Notwithstanding the foregoing, a default by a subcontractor of Contractor shall 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 shall 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 Subparagraph, the term "subcontractor" and "subcontractors" mean subcontractors at any tier.

8.20.3 In the event Contractor's failure to perform arises out of a force majeure event, Contractor agrees to use commercially reasonable 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.

8.21 **Governing Law, Jurisdiction, and Venue**

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all

purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

8.22 **Independent Contractor Status**

8.22.1 This Contract is by and between the County and the Contractor and is not intended, and shall 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 shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

8.22.2 The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. The County shall 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.

8.22.3 The Contractor understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The Contractor shall 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 Contract.

8.22.4 The Contractor shall adhere to the provisions stated in Paragraph 7.3 (Confidentiality).

8.23 **Indemnification**

The Contractor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, 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 Contract.

8.24 **General Provisions for All Insurance Coverage**

Without limiting Contractor's indemnification of County, and in the performance of this Contract and until all of its obligations pursuant to this Contract have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in Subparagraphs 8.24. and 8.25 of this Contract. 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 Contract. 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 Contract.

8.24.1 **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, shall be delivered to the County Project Manager prior to commencing services under this Contract.
2. Renewal Certificates shall 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 shall identify all Required Insurance coverage types and limits specified herein, reference the Contract by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Contractor identified as the contracting party in this Contract. Certificates shall 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 (\$50,000.00), 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), shall be construed as a waiver of any of the Required Insurance provisions.

Contractor also shall 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 shall 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 Contract, and could result in the filing of a claim or lawsuit against Contractor and/or County.

8.24.2 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) shall 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 shall 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 shall 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.

8.24.3 Cancellation of or Changes in Insurance

Contractor shall provide County with, or Contractor's insurance policies shall contain a provision that County shall 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 shall 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 Contract, in the sole discretion of the County, upon which County may suspend or terminate this Contract.

8.24.4 Failure to Maintain Insurance

Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Contract, upon which County immediately may withhold payments due to Contractor, and/or suspend or terminate this Contract. 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.

8.24.5 Insurer Financial Ratings

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

8.24.6 Contractor's Insurance Shall Be Primary

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

8.24.7 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 Contract. The Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

8.24.8 Subcontractor Insurance Coverage Requirements

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

of any subcontractor request for modification of the Required Insurance.

8.24.9 Deductibles and Self-Insured Retentions (SIRs)

Contractor's policies shall 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 shall be executed by a corporate surety licensed to transact business in the State of California.

8.24.10 Claims Made Coverage

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

8.24.11 Application of Excess Liability Coverage

Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

8.24.12 Separation of Insureds

All liability policies shall 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.

8.24.13 Alternative Risk Financing Programs

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

8.24.14 County Review and Approval of Insurance Requirements

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

8.25 Insurance Coverage

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

General Aggregate:	\$4 million
Products/Completed Operations Aggregate:	\$4 million
Personal and Advertising Injury:	\$2 million
Each Occurrence:	\$2 million

8.25.2 **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 shall cover liability arising out of Contractor's use of autos pursuant to this Contract, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

8.25.3 **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 shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as an alternate employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Contractor's operations, coverage also shall be arranged to satisfy the requirements of any Federal workers or workmen's compensation law or any Federal occupational disease law.

8.25.4 **Professional Liability/Errors and Omissions:** Insurance covering Contractor's liability arising from or related to this Contract, with limits of not less than \$2 million per claim and \$ 2 million aggregate. Further, Contractor understands and agrees it

shall maintain such coverage for a period of not less than three (3) years following this Contract's expiration, termination, or cancellation.

8.25.5 **Crime Coverage:** Insurance with limits in amounts not less than indicated below covering against any loss of money, securities, or other property referred to in this Contract, and naming the County as a Loss Payee.

Employee Dishonesty:	\$500,000
Computer Fraud;	\$500,000

8.26 **Intentionally Omitted**

8.27 **Nondiscrimination and Affirmative Action**

8.27.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall 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.

8.27.2 The Contractor shall certify to, and comply with, the provisions of Exhibit C (Contractor's EEO Certification).

8.27.3 The Contractor shall 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 shall 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.

8.27.4 The 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.

8.27.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person

shall, 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 Contract, or under any project, program, or activity supported by this Contract.

8.27.6 The Contractor shall allow County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this Subparagraph 8.27 when so requested by County.

8.27.7 If the County finds that any provisions of this Subparagraph 8.27 have been violated, such violation shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract. While the County reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Contract.

8.27.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Contract, the County shall, 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 Contract.

8.28 **Non Exclusivity**

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Contract shall not restrict the Department from acquiring similar, equal or like goods and/or services from other entities or sources.

8.29 **Notice of Delays**

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

8.30 **Intentionally Omitted**

8.31 **Notice to Employees Regarding the Federal Earned income Credit**

The Contractor shall notify its employees, and shall 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 shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

8.32 **Notice to Employees Regarding the Safely Surrendered Baby Law**

The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit I of this Contract and is also available on the Internet at www.babysafela.org for printing purposes.

8.33 **Notices**

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in Exhibits D (County's Administration) and E (Contractor's Administration). Addresses may be changed by either party giving ten (10) days prior written notice thereof to the other party. The CEO or his designee shall have the authority to issue all notices or demands required or permitted by the County under this Contract.

8.34 **Prohibition Against Inducement or Persuasion**

Notwithstanding the above, the Contractor and County agree that, during the term of this Contract and for a period of one (1) year thereafter, neither party shall 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.

8.35 **Public Records Act**

8.35.1 Any documents submitted by the Contractor; all information obtained in connection with the County's right to audit and inspect the Contractor's documents, books, and accounting records pursuant to Subparagraph 8.37 (Record Retention and

Inspection/Audit Settlement) of this Contract; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process for this Contract, become the exclusive property of the County. All such documents become a matter of public record and shall 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". The County shall 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, provided that the County will endeavor to provide Contractor with prompt notice of any such required disclosure so that Contractor may seek to prevent or limit the scope of such disclosure.

- 8.35.2 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 a proposal 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.

8.36 **Publicity**

- 8.36.1 The Contractor shall not disclose any details in connection with this Contract to any person or entity except as may otherwise be 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 shall not inhibit the Contractor from publishing its role under this Contract within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; and
- During the term of this Contract, the Contractor shall not, and shall 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 Project Director. The County shall not unreasonably withhold written consent.

8.36.2 The County may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Contract with the County of Los Angeles, provided that the requirements of this Subparagraph 8.36 shall apply.

8.37 **Record Retention and inspection/Audit Settlement**

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that, upon reasonable prior notice to the Contractor, and no more than once per calendar year, the County, or its authorized representative, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Contract during regular business hours. 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, shall be kept and maintained by the Contractor and shall be made available to the County during the term of this Contract 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 shall be maintained by the Contractor at a location in Los Angeles County, provided that if such material is located outside Los Angeles County, then the Contractor shall deliver such material to the County at a location in Los Angeles County.

8.37.1 In the event that an audit of the Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by the Contractor, or otherwise, then the Contractor shall 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 Contract. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

8.37.2 Failure on the part of the Contractor to comply with any of the provisions of this Subparagraph 8.37 shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract.

8.37.3 If, at any time during the term of this Contract, or within five (5) years after the expiration or termination of this Contract, representatives of the County conduct an audit of the Contractor regarding the work performed under this Contract, and if such audit finds that the County's dollar liability for any such work is less than the payments made by the County to the Contractor, then the difference shall 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 Contract 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 shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation for this Contract exceed the funds appropriated by the County for the purpose of this Contract.

8.38 **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 Contract.

8.39 **Subcontracting**

8.39.1 The requirements of this Contract may not be subcontracted by the Contractor without the advance approval of the County. Any attempt by Contractor to subcontract without the prior consent of the County may be deemed a material breach of this Contract.

8.39.2 If the Contractor desires to subcontract, the Contractor shall provide the following information promptly at the County's request:

- A description of the work to be performed by the subcontractor;
- A draft copy of the proposed subcontract; and
- Other pertinent information and/or certifications requested by the County.

8.39.3 The Contractor shall indemnify and hold the County harmless 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 Contractor's employees.

8.39.4 The Contractor shall remain fully responsible for all performances required of it under this Contract, including those that the Contractor has determined to subcontract, notwithstanding the County's approval of the Contractor's proposed subcontract.

8.39.5 The County's consent to subcontract shall not waive the County's right to prior and continuing approval of any and all personnel, including subcontractor employees, providing services under this Contract. The Contractor is responsible to notify its subcontractors of this County right.

8.39.6 The County Project Director is authorized to act for and on behalf of the County with respect to approval of any subcontract and subcontractor employees. After approval of the subcontract by the County, Contractor shall forward a fully executed subcontract to the County for their files.

8.39.7 The Contractor shall 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.

8.39.8 The Contractor shall obtain certificates of insurance, which establish that the subcontractor maintains all the programs of insurance required by the County from each approved subcontractor. The Contractor shall ensure delivery of all such documents to the County Project Manager before any subcontractor employee may perform any work hereunder.

8.40 **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 set forth in Subparagraph 8.14 (Contractor's Warranty of Adherence to County's Child Support Compliance Program), shall constitute default under this Contract. Without limiting the rights and remedies available to the County under any other provision of this Contract, failure of Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the County may terminate this Contract pursuant to Subparagraph 8.42 (Termination for Default) and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

8.41 **Termination for Convenience**

8.41.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the 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 shall be no less than **ninety (90)** days after the notice is sent.

8.41.2 After receipt of a notice of termination and except as otherwise directed by the County, the Contractor shall:

- Stop work under this Contract on the date and to the extent specified in such notice; and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.41.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Contract shall be maintained by the Contractor in accordance with Subparagraph 8.37 (Record Retention and Inspection/Audit Settlement).

8.42 **Termination for Default**

8.42.1 The County may, by written notice to the Contractor, terminate the whole or any part of this Contract, if, in the judgment of the County Project Director:

- Contractor has materially breached this Contract; or
- Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Contract; or
- Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of any obligations of this Contract and in either case, fails to demonstrate convincing progress toward a cure within fifteen (15) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

- 8.42.2 Except with respect to defaults of any subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in Subparagraph 8.42.1 above if its failure to perform this Contract arises out of causes beyond the control and without the fault 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, an 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 shall 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 Subparagraph, the term "subcontractor(s)" means subcontractor(s) at any tier.
- 8.42.3 If, after the County has given notice of termination under the provisions of this Subparagraph 8.42, it is determined by the County that the Contractor was not in default under the provisions of this Subparagraph 8.42, or that the default was excusable under Subparagraph 8.42.2, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Subparagraph 8.41 (Termination for Convenience).
- 8.42.4 The rights and remedies of the County provided in this Subparagraph 8.42 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- 8.42.5 Contractor may, by written notice to County, terminate the whole or any part of this Contract, if County has materially breached this Contract and has not cured such material breach within sixty (60) days of receiving notice of such breach.

8.43 Termination for Improper Consideration

- 8.43.1 The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Contract 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 Contract or securing favorable treatment with respect to the Contractor's performance pursuant to this Contract. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.
- 8.43.2 The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.
- 8.43.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

8.44 Termination for Insolvency

- 8.44.1 The County may terminate this Contract forthwith in the event of the occurrence of any of the following:
- Insolvency of the Contractor. The Contractor shall 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;
 - The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
 - The appointment of a Receiver or Trustee for the Contractor; or
 - The execution by the Contractor or a general assignment for the benefit of creditors.

8.44.2 The rights and remedies of the County provided in this Subparagraph 8.44 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.45 **Termination for Non-Adherence of County Lobbyist Ordinance**

The Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. 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 shall constitute a material breach of this Contract, upon which the County may in its sole discretion, immediately terminate or suspend this Contract.

8.46 **Termination for Non-Appropriation of Funds**

Notwithstanding any other provision of this Contract, the County shall not be obligated for the Contractor's performance hereunder or by any provision of this Contract during any of the County's future fiscal years unless and until the County's Board of Supervisors appropriates funds for this Contract in the County's Budget for each such future fiscal year. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30 of the last fiscal year for which funds were appropriated. The County shall notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.

8.47 **Validity**

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

8.48 **Waiver**

No waiver by the County of any breach of any provision of this Contract shall 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 Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Subparagraph 8.48 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.49 Warranty Against Contingent Fees

8.49.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide establish commercial or selling agencies maintained by the Contractor for the purpose of securing business.

8.49.2 For breach of this warranty, the County shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.50 Warranty of Compliance with County's Defaulted Property Tax Reduction Program

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.

Unless Contractor qualifies for any exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now in compliance, with Los Angeles County Code Chapter 2.206.

8.51 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 set forth in Subparagraph 8.50 (Warranty of Compliance with County's Defaulted Property Tax Reduction Program) shall 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 shall be grounds upon which County may terminate this Contract and/or pursue debarment of Contractor, pursuant to County Code Chapter 2.206.

8.52 Dispute Resolution Procedure

8.52.1 Contractor and County agree to act promptly and diligently to mutually resolve any disputes which may arise with respect to this Contract. All such disputes shall be subject to the provisions of this Subparagraph 8.52.

- 8.52.2 Contractor and County agree that, the existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder, except for any performance which County, in its sole discretion, determines should be delayed as a result of such dispute or if Contractor has a reasonable basis for not performing. County shall continue to pay sums not in dispute during any such period of continued performance.
- 8.52.3 If Contractor fails (without a reasonable basis) to continue without delay its performance hereunder which County, in its sole discretion, determines should not be delayed as a result of such dispute, then any additional costs which may be incurred by Contractor or County as a result of Contractor's failure to continue to so perform shall be borne by the Contractor, and Contractor shall make no claim whatsoever against County for such costs. Contractor shall promptly reimburse County for such County costs, as determined by County, or County may deduct all such additional costs from any amounts due to Contractor from County, whether under this Contract or otherwise.
- 8.52.4 If County fails to continue without delay to perform its responsibilities under this Contract which County, in its sole discretion, determined should not be delayed as a result of such dispute, then any additional costs incurred by the Contractor or County as a result of County's failure to continue to so perform shall be borne by County, and County shall make no claim whatsoever against Contractor for such costs. County shall promptly reimburse Contractor for all such additional Contractor costs subject to the written approval of such costs by County.
- 8.52.5 In the event of any dispute between the parties with respect to this Contract, Contractor and County shall submit the matter to their respective Project Managers for the purpose of endeavoring to resolve such dispute.
- 8.52.6 In the event that the Project Managers are unable to resolve the dispute within a reasonable time not to exceed five (5) days from the date of submission of the dispute to them, then the matter shall be immediately submitted to the parties' respective Contract Administrators for further consideration and discussion to attempt to resolve the dispute.
- 8.52.7 In the event that the Contract Administrators are unable to resolve the dispute within a reasonable time not to exceed five (5) days from the date of submission of the dispute to them, then the

matter shall immediately be submitted to Contractor's President and County's Assistant Executive Officer for further consideration and discussion to attempt to resolve the dispute.

- 8.52.8 In the event that the Contractor's President and County's Assistant Executive Officer are unable to resolve the dispute within a reasonable time not to exceed ten (10) days from the date of submission of the dispute to them, then each party may assert its other rights and remedies as provided by law.
- 8.52.9 All disputes utilizing this dispute resolution procedure shall be documented in writing by each party and shall state the specifics of each alleged dispute and all actions taken. The parties shall act in good faith to resolve all disputes. At all levels described in this Subparagraph 8.52, the efforts to resolve a dispute shall 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.
- 8.52.10 Notwithstanding any other provision of this Contract, County's right to terminate this Contract pursuant to Subparagraph 8.41 (Termination for Convenience), Subparagraph 8.42 (Termination for Default), Subparagraph 8.44 (Termination for Insolvency), or any other termination provision hereunder, and County's right to seek injunctive relief to enforce the provisions of Subparagraph 7.3 (Confidentiality), and Subparagraph 9.7 (Confidentiality of County Records), shall not be subject to this Dispute Resolution Procedure. The preceding sentence is intended only as a clarification of County's rights, and shall not be deemed to impair any claims that Contractor may have against County or Contractor's rights to assert such claims after any such termination or such injunctive relief has been obtained.

9.0 UNIQUE TERMS AND CONDITIONS

9.1 Contractor's Obligations as a "Business Associate" Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH)

The County is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under this Contract, the Contractor provides services to the County and the Contractor receives, has access to, and/or creates Protected Health Information, as defined in Exhibit J in order to provide those services. The County and the Contractor therefore agree to the terms of Exhibit J

(Contractor's Obligations as a "Business Associate" Under Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH) (Business Associate Agreement).

9.2 **Ownership of County Data**

9.2.1 County shall be the sole owner of all right, title and interest, including copyright, in and to all of County's data on the System.

9.2.2 All the rights and obligations of this Subparagraph 9.2 shall survive the expiration or termination of this Contract.

9.3 **Ownership of the System and License**

Contractor shall retain all right, title, and interest, including copyright, in and to the Source Code and all intellectual property embodied in and associated with the System modules, and the County shall have a perpetual license to use the System.

Contractor hereby grants to County a non-exclusive, perpetual, world-wide license to copy, disclose, maintain and, for up to three hundred (300) concurrent and up to six hundred thirty one (631) remote Users, use the System, and any other tools, procedures or know-how that become inextricably embodied in the System. Contractor hereby grants an option to County, exercisable at County's sole and absolute discretion, to purchase from Contractor additional concurrent User licenses and additional remote User licenses, set forth in Exhibit B (Pricing Schedule).

9.3.1 **License Term**

The License granted under this Contract shall commence upon the Effective Date and, provided undisputed payments for such License are made as provided herein, shall continue through the term of this Contract and for a period of two (2) years following termination or expiration of the Contract (hereinafter "Transition Period") at no cost to County. Notwithstanding the preceding sentence, during the Transition Period, the License shall apply to the Application Software and Work Product and will not include any Hosting Services and/or Third Party Software licensed to County by Contractor, unless Contractor's license for such Third Party Software allows such use without additional cost to County or Contractor.

9.3.2 Scope of License

The License granted by Contractor under this Contract provides the County with the following rights:

1. To use, install, integrate with other software, operate and execute (a) during the term of the Contract, the System Software in the System Environment on an unlimited number of computers, servers, local area networks and wide area networks, including web connections and (b) during the Transition Period, the Application Software on a County server with computing power approximately equal to the Production Server running an operating system that is then supported by Contractor for its customers generally, or its equivalent at the time, by an unlimited number of Users in the conduct of the business of the County as provided in the Contract;
2. To use, modify, copy, and display the Documentation as intended by Contractor, including, but not limited to, System and User manuals, as necessary or appropriate for County to enjoy and exercise fully the rights granted under this Contract and License;
3. To permit third party access to the Application Software, the Documentation, or any part thereof, as necessary or appropriate for County to enjoy and exercise fully the rights granted under this Contract and the License, including for the provision of System Maintenance Services, Application Modifications, Professional Services or other business use or support of the Application Software as contemplated by this Contract; provided, however, without limiting County's rights under this Subparagraph 9.7.2, County covenants and agrees that it shall not exercise any of the rights contained in this Subparagraph 9.7.2(3) unless and until the occurrence of any one of the Release Conditions;
4. Pursuant to Subparagraph 8.1 (Assignment and Delegation), to reproduce and use a reasonable number of copies of the System Software provided by Contractor to County and permitted assignees, for archive and backup purposes; and
5. During the term of the Contract, to use, copy, and test System Software, and specifically the Baseline Software, in the Test Environment, including for the purpose of building

its own solutions or models, as mutually agreed to by the parties.

9.3.3 License Restrictions

County acknowledges and agrees (i) that the System Software provided by Contractor to County under this Contract, including related Documentation, is the confidential and copyrighted property of Contractor, or its licensors, and all rights therein not expressly granted to County are reserved to Contractor, or its licensors, as applicable; and (ii) that Contractor, or its licensors, retain all proprietary rights in and to the foregoing. Subsequently, County's License to the System Software provided by Contractor hereunder is limited by the restrictions set forth in this Subparagraph 9.3.3 below. County will not:

1. Reverse engineer, disassemble or decompile the System Software provided by Contractor;
2. Transfer, sublicense, rent, lease, convey or assign (unless resulting from a Contract Assignment under Subparagraph 8.1 (Assignment and Delegation)) the System Software provided by Contractor;
3. Copy or reproduce the System Software provided by Contractor in any way except as reasonably necessary for backup, archival or business continuity purposes;
4. Use the System Software provided by Contractor on a timesharing, service bureau, subscription service or rental basis for any third party;
5. Use the System Software provided by Contractor to process data for the benefit of any third parties outside of this Project;
6. Use the System Software for any purpose other than as specified in this Contract or Project; or
7. Remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on, or during the use of, the System Software

9.3.4 Escrow Agreement

The Contractor shall enter into its customary agreement (the "Escrow Agreement") with an outside third party to escrow the

Source Code, programming information and Documentation for the Application Software modules version licensed by the County (including all modules, database tables and definitions, files, customizations, data conversion programs and interfaces) and any and all Updates or version changes provided to the County at the inception of this Contract and thereafter. The County shall pay all costs associated with such escrow arrangement, including, without limitation, the fees of the escrow agent. At the conclusion of the development, programming, construction and customization of the County's Application Software modules, the customized version will replace the Source Code in escrow, and the Escrow Agreement shall be amended to reflect the County's customized Application Software modules and the revised escrow arrangements. Contractor shall, on a yearly basis, at the County's cost, arrange for an independent audit of this escrow to confirm the availability and completeness of the information and that the most current version of the System is in escrow.

- 9.3.5 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.

9.4 **Patent, Copyright, and Trade Secret Indemnification**

- 9.4.1 The Contractor shall 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, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, as such are incurred, for or by reason of any actual or alleged infringement of any patent or copyright, or other rights of any third party, or any actual or alleged trade secret disclosure or misappropriation, arising from or related to the System or the operation and utilization of Contractor's work under this Contract (hereinafter collectively referred to as "Infringement Claim(s)"). Contractor shall have no obligation to County under this Paragraph 9.4 if any Infringement Claim is caused by use by County of the System other than in accordance with the Specifications and other applicable Documentation, as initially determined by County Project Director but subject to Subparagraph 8.52 (Dispute Resolution Procedure). Any legal defense pursuant to Contractor's indemnification obligations under this Subparagraph 9.4 shall be conducted by Contractor and performed by counsel selected by Contractor.

Notwithstanding the preceding sentence, County shall 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 required by law and this Contract, County shall be entitled to reimbursement for all such costs and expenses.

9.4.2 Without limiting the foregoing, in the event the County Project Director becomes aware that ongoing use of the System, or any part thereof, is the subject of any Infringement Claim that might preclude or impair County's use of the System or any portion thereof (e.g. injunctive relief), or that County's continued use of the System or a portion thereof may subject it to punitive damages or statutory penalties or other costs or expenses, County shall give written notice to Contractor of such fact(s). Upon notice of such facts, Contractor shall, at no cost to County, either (1) procure the right, by license or otherwise, for County to continue to use the System or affected part(s) thereof to the same extent of County's license under this Contract, or (2) to the extent Contractor is unable to procure such rights, replace or modify the System or the affected part(s) with another part or component of equivalent quality and performance capabilities, in County's determination, to become non-infringing, non-misappropriating and/or non-disclosing.

9.4.1 If Contractor fails to complete the remedial acts set forth above within ninety (90) days after the date of the written notice from County, County shall have the right to take such remedial acts it determines to be reasonable to mitigate any impairment of its use of the System or the affected part(s) thereof or damages or other costs or expenses (hereafter referred to as "County's Remedial Acts"). Contractor shall indemnify County for all amounts paid and all direct and indirect costs associated with County's Remedial Acts. Failure by Contractor to pay such amounts and costs within ten (10) days after receiving an invoice from County shall, in addition to, and cumulative to all other remedies entitle County to immediately withhold payments due to Contractor up to the total of the amounts and costs paid in connection with County's Remedial Acts.

9.5 **Limited Warranty – Disclaimer and Limitation of Liability**

9.5.1 Limited Warranty

The System is provided "as is" without additional warranty of any kind, and Contractor expressly disclaims all other warranties,

express or, including, but not limited to, the implied warranties of design, merchantability, fitness for a particular purpose, any warranties arising from a course of dealing, usage, or trade practice. Contractor does not warrant that the functions contained in the System will meet County's requirements, or that the operation of the System will be uninterrupted or error-free, or that defects in the System will be corrected. Furthermore, Contractor does not warrant or make any representations regarding the use or the results of the use of the System in terms of its correctness, accuracy, reliability, or otherwise. No oral or written information or advice given by Contractor or Contractor's representatives shall create any warranty with regard to the System or in any way increase the scope of this warranty.

9.5.2 Limitation of Liability

Under no circumstances, including negligence, shall Contractor be liable for any lost revenue or profits or any incidental, indirect, special, or consequential damages that result from the use or inability to use the System, even if Contractor or Contractor's authorized representative has been advised of the possibility of such damages. In no event shall Contractor's total liability to County for all damages, losses, and causes of action, whether in Contract, tort (including negligence) or otherwise, exceed a sum equal to ninety (90) days service fees paid by County to Contractor under this Contract. In addition, Contractor will not be liable for any claims of any party arising out of any alleged or actual infringement by the System of any intellectual property rights of any third party. This limitation of liability provision, however, shall not relieve Contractor's indemnification obligations to third parties pursuant to Subparagraph 8.23 (Indemnification), of this Contract nor shall it apply to any loss or related expense which is actually covered under any of the commercial insurance policies required to be maintained by Contractor pursuant to this Contract.

9.5.3 Limitations Concerning Third Party Material

Contractor shall have no responsibility under any condition for performance of any hardware or programs licensed by it from third parties, and County shall rely solely on the manufacturers' warranty, if any.

9.5.4 Exclusions

Contractor shall not be responsible to the extent any failure to perform in accordance with the foregoing warranties is caused by (a) County's failure to use the System in accordance with instructions included in the Documentation provided to County by Contractor, (b) the modification of the System by any person other than the Contractor, its employees, agents, affiliates or subcontractors (unless such modification was authorized or approved by any on the foregoing) or (c) problems caused by the Server's connectivity to County's network. If Contractor is requested by County to service such matters, County shall pay Contractor an additional fee for such services.

9.5.5 Risks Considered

Contractor's pricing reflects the allocation of risks and limitation of liability in this Contract.

9.6 **Warranties**

9.6.1 Contractor shall perform warranty services as set forth in this Contract.

1. The System shall be in substantial compliance with the Specifications and with the descriptions and representations (including, but not limited to, Deliverable documentation, performance capabilities, accuracy, completeness, characteristics, specifications, configuration, standards, functions and requirements applicable to professional software design meeting industry standards) set forth in Exhibit A (Statement of Work) and its Attachments.
2. All tasks, subtasks, Deliverables, goods, services, and other work shall be performed in a timely and professional manner by qualified personnel.
3. All tasks, subtasks, Deliverables, goods, services, and other work shall be completed in accordance with this Contract, Deliverable documentation and manufacturer's specifications.
4. The System components shall be capable of interconnecting and/or interfacing with each other, when taken together, shall be capable of delivering all of the

functionality as set forth in this Contract (including, without limitation, the Specifications and Exhibit A (Statement of Work) and Attachments thereto).

5. Contractor shall not knowingly cause any unplanned interruption of the operations of, or accessibility to the System or any System component through any device, method or means including, without limitation, the user of any “virus”, “lockup”, “time bomb”, or “key lock”, “worm”, 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 the System or any System component to County or any User or which could alter, destroy, or inhibit the User of the System, any System component, or the data contained therein (collectively referred to for purposes of this Subparagraph as “Disabling Device(s)”) which could block access to or prevent the use of the System or any System component by County or Users. Contractor represents, warrants and agrees that it has not purposely placed, nor is it aware of, any Disability Device on any System component provided to County under this Contract, nor shall Contractor knowingly permit any subsequently delivered System component to contain any Disabling Device, other than lock-offs contained on the delivered media which only prevents user of software contained on such media other than System components.
6. The System shall be in substantial compliance with the performance standards set forth in Attachment 1 (Performance Standards Requirements) of Exhibit A (Statement of Work).
7. Provided that County is paying the fee as specified in Exhibit B (Pricing Schedule) for services pursuant to Subparagraph 5.1 (Basic Monthly Maintenance and Support) of Exhibit A (Statement of Work), then all Updates, enhancements, improvements, releases or version of the System, or any component or module of the System (other than Customization), and all available Documentation related thereto, shall be provided to County, at no additional cost over and above the sums otherwise payable by County.

8. Contractor shall use its best efforts to prevent viruses from being incorporated or introduced into the System, or Updates or enhancements thereto prior to delivery thereof to County, and shall utilize its best efforts to prevent any viruses being incorporated or introduced in the process of Contractor's loading of the System, Updates and enhancements thereto, or being introduced in the process of Contractor's performance of online support.

9.6.2 Additional Warranties

Contractor further represents, warrants, covenants and agrees throughout the term of this Contract to all of the following in providing the System, conversions, and services of Contractor described herein:

1. County shall be entitled to use the System and all System components subject only to County's obligation to make the required payments under this Contract. Contractor represents and warrants that this Contract is neither subject nor subordinate to any right or claim of any third party, including, without limitation, Contractor's creditors. Further, Contractor represents and warrants that during the term of this Contract, it shall not subordinate this Contract or any of its rights hereunder to any third party without the prior written consent of County, and without providing such subordination instrument for non-disturbance of County's use of the System and System components in accordance with this Contract.
2. Contractor shall escrow the Source Code for the account of the County, subject to the provisions of Subparagraph 9.3.4 (Escrow Agreement).
3. Contractor is duly authorized to grant to County all rights, including, but not limited to, license rights, granted by this Contract with respect to all Application Software.

9.6.3 Continuous Product Support

If Contractor assigns this Contract, is acquired, becomes otherwise controlled by another individual or entity, or sells, assigns, or transfers more than fifty percent (50%) of its interest in the System (generically referred to as a "Successor Event"), such successor shall assume in writing all of the obligations of Contractor under this Contract.

9.6.4 Third Party Software

1. Modification

Contractor represents and warrants that it has not modified and shall not modify, nor does Contractor have any need to modify, Third Party Software in order for the System to fully perform in accordance with warrants that it does not have any license or other right to modify Third Party Software and that Third Party Software shall be provided to County in the same unmodified form as received by Contractor from the applicable third party. Contractor represents and warrants that Third Party Software shall, together with the remainder of the System, fully satisfies all requirements of the Contract without the need for any modification of Third Party Software by Contractor or otherwise.

2. License Agreement

County acknowledges that it may have to execute certain third party license agreements in respect to Third Party Software. To the extent that any such third party license conflicts with this Contract as it applies to County's right to use or modify this System, Contractor shall take all necessary action and pay all sums required to provide County with all the rights to use and modify the System afforded by this Contract. Contractor warrants that whether or not such third party license agreements are required of County, County shall receive perpetual licenses of all Third Party Software that shall allow use of the System in accordance with all of the terms of this Contract, providing County pays any required maintenance fees.

3. In the event it nonetheless becomes necessary to modify Third Party Software to satisfy any of the requirements of this Contract, Contractor shall promptly, at no cost to County, either: (1) obtain a license from the appropriate third party which shall enable Contractor to modify such Third Party Software, and Contractor shall provide all necessary modifications or (2) provide an upgrade or alternative solution, which is functionally equivalent, in County Project Director's reasonable determination, in lieu of modifying such Third Party Software. If County exercises its option to terminate this Contract for convenience pursuant to Paragraph 8.41 (Termination for

Convenience), the obligations of Contractor set forth in this Paragraph shall be null and void. Nothing herein shall require Contractor to pay for a new release, version, or revision of Third Party Software, which is not otherwise provided under maintenance and support.

9.7 **Confidentiality of County Records**

- 9.7.1 Contractor shall maintain the confidentiality of all records and information, including, but not limited to, billings, County records, claimant/plaintiff records and similar information, in accordance with all applicable Federal, State and local laws, regulations, ordinances, guidelines and directives relating to confidentiality. Contractor shall inform all of its officers, employees and agents providing services hereunder of the confidentiality provisions of this Contract. Contractor shall provide to County an executed Contractor Employee Acknowledgment, Confidentiality and Copyright Assignment Agreement (Exhibit F) for each of its employees performing work under this Contract in accordance with Subparagraph 8.22 (Independent Contractor Status). Contractor shall indemnify and hold harmless County, its officers, employees and agents, from and against any and all loss, damage, liability, and expense, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, arising from any disclosure of such records and information by Contractor, its officers, employees, or agents, except for any disclosure authorized by this Subparagraph 9.7.
- 9.7.2 With respect to any identifiable information concerning any claimant/plaintiff that is obtained by Contractor, Contractor shall: (1) not use any such information for any purpose whatsoever other than carrying out the express terms of this Contract; (2) promptly transmit to County all requests for disclosure of any such information; (3) not disclose, except as otherwise specifically permitted by this Contract, any such information to any person or organization other than County without County's prior written authorization that the information is releasable; and (4) at the expiration or termination of this Contract, return all such information to the County or maintain such information according to the written procedures sent to Contractor by County for this purpose.

IN WITNESS WHEREOF, Contractor has executed this Contract, or caused it to be duly executed and the County of Los Angeles, by order of its Board of Supervisors has caused this Contract to be executed on its behalf by the Mayor of said Board and attested by the Executive Officer-County Clerk of the Board of Supervisors thereof, the day and year first above written.

COUNTY OF LOS ANGELES

P & C CLAIMS, INC.

By: _____
Chair, Board of Supervisors

By: _____

Name

Title

Date

ATTEST:

SACHI HAMAI
Executive Officer-Clerk
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN
County Counsel

By: _____
Behnaz Tashakorian
Deputy County Counsel

STATEMENT OF WORK

1.0 BACKGROUND

The County has a license for an automated Workers' Compensation (WC) Claims Administration System (System) from P&C Claims Incorporated.

The County currently has four (4) contracts with WC third party administrators (WC TPAs) to provide claims administration. These contractors handle an average of 10,500 new claims and 24,000 open claims annually. There are about 400,000 total claims in the system. In addition to the WC TPAs, the System is used by over 300 end users from various County departments to process, monitor and report on WC claims. Ongoing System maintenance is required to ensure timely and accurate administration and processing of these claims.

2.0 SCOPE

This Statement of Work (Exhibit A) defines the services which the Contractor shall provide to County on a fixed-price deliverable basis including: 1) Basic monthly maintenance and support, and 2) customizations to Contractor's identified software, as defined in Subparagraph 3.4 below.

3.0 DEFINITIONS

- 3.1 Acceptance; Accepted: "Acceptance" and "Accepted" shall mean County's written approval of any task, subtask, deliverable, goods, services or other Work provided by Contractor to County, consistent with the requirements in Subparagraph 4.1.4 herein.
- 3.2 Contractor Hardware (Hardware): "Hardware" shall mean but is not limited to all equipment purchased by Contractor necessary to operate System, including equipment purchased by any of Contractor's subcontractor(s).
- 3.3 Contractor Identified Software Package (Software): "Software" shall mean all Contractor applications necessary to successfully run System as established by the County. Software shall also mean third party software, as specified in Subparagraph 3.20 below. Software shall include, but not be limited to:
- GENCOMP: A character based application running on a legacy system that provides claims administration functions.

- GENLEGAL: A GenComp subsystem (an application running within the GENCOMP environment) that provides additional functions for the administration of litigated claims.
 - Data Warehouse: Data store capturing data from the claims database for simple and efficient reporting.
- 3.4 Customization(s): "Customizations" shall mean any change(s) to the System not covered under the Basic Monthly Maintenance and Support that may include, but not be limited to, software modifications, additional interfaces and related Documentation, and upgrade to the ClaimsVision platform which Contractor may provide at County's request in the form of Optional Work in accordance with Subparagraph 5.3 herein.
- 3.5 Deficiency(ies): "Deficiency(ies)" shall mean and include defect(s) in design, development, programming, implementation, materials, or workmanship; error(s); omissions; deviation(s) from published or mutually agreed upon standards, or from any of the Specifications, or from any County-approved Deliverable(s); or other problem(s) which result in the System not performing in accordance with the provisions of the Contract, including, without limitation, the Specifications.
- 3.6 Deliverable(s): "Deliverable(s)" shall mean any task, subtask, item, and/or a service or other consideration to be provided by Contractor under this Contract.
- 3.7 Final Acceptance: "Final Acceptance" shall mean County's sole and absolute discretion to approve in writing the work performed.
- 3.8 Fiscal Year: "Fiscal Year" shall mean the twelve (12) month period beginning July 1 and ending June 30th.
- 3.9 FROI-SROI -EDI: "FROI-SROI-EDI" shall mean First Report of Injury - Subsequent Report of Injury – Electronic Data Interface". County is required by the State of California (State) to report all injuries to the State.
- 3.10 GenIRIS ASP: "GenIRIS ASP" shall mean the web enable version of the GenIRIS application; a graphics based version of the GenCOMP software.
- 3.11 Hosting Services: "Hosting Services" shall mean the secure environment set-up and maintained by Contractor at Contractor's facility, in which County data and application software is retained.
- 3.12 Implementation Package: "Implementation Package" shall mean the documents listed below that describe the procedures to design and implement a project for requested and/or required changes to the System.

The documents listed below shall include, without limitation a detailed work plan, work breakdown structure, beginning and completion dates of phases, Gantt chart, staffing resources and organization. The Implementation Packages submitted pursuant to this Exhibit A shall automatically become a part of the Contract upon County's approval following their delivery. Implementation Packages are subject to final approval by County and may be requested at County's sole discretion. Implementation Packages

- A. Hardware and Communications Requirements Document
- B. Requirements Package
- C. Requirements Document
- D. UniVerse Descriptors
- E. ASP Connection Documentation
- F. Training Materials (electronic)
- G. Final Implementation Procedures

- 3.13 Maintenance Schedule: "Maintenance Schedule" shall mean the time allotted to Contractor to run daily, normal, routine maintenance, as approved by County.
- 3.14 Phase(s): "Phase(s)" shall mean the organization of work to be executed and delivered in the Implementation Package as specified in Subparagraph 3.12.
- 3.15 Software License: "Software License" shall mean authorized use of Contractor's software, as specified in Subparagraph 3.3, the payment for which is included in the Monthly Maintenance and Support fee.
- 3.16 Specifications: "Specifications" shall mean the functional and operational requirements/features as set forth in this Statement of Work and Attachment I (Performance Standards Requirements Chart).
- 3.17 System: "System" shall mean all Software, Hardware, third party software, Customizations, conversions, interfaces, databases and services described in this Contract and as otherwise agreed to in writing by Contractor and County pursuant to Paragraph 8.4 (Change Notices and Amendments) of the Contract, collectively comprising the Workers' Compensation Claims Administration System. Reference to the System may include one or more components or modules thereof of the entire System.
- 3.18 Third Party Administrators: "Third Party Administrators" shall mean the identified, contracted organizations that handle workers' compensation claims administration for the County.

- 3.19 Third Party Software: "Third Party Software" shall mean application software owned by third parties which County may or may not have a license to use, but is necessary to run County's WC Claims Administration System. If County does not have a license to use the necessary Third Party Software, Contractor shall purchase a license for use at no additional charge to County. Third Party Software shall include, but is not limited to the following:
- Citrix Software: Software used for application publishing and for providing a secure gateway for client access to GenSource applications.
 - Microsoft Software: Operational system and various other software used throughout the ASP environment.
 - AIX: Operating system for the database server.
 - Wintegrate: Report generator.
 - English Wizard: Query and reporting tool used to ask "English" questions to query against the database.
 - UniVerse: Database software.
- 3.21 Upgrade: "Upgrade" shall mean a routinely-issued revision of the Software, generally issued for the purpose of correcting discovered errors, improving efficiency or overall performance and incorporating enhancements or statutory changes that Contractor generally makes available to its customers of the Software but does not include customizations that include departures from the standard specifications with regard to functionality or enhancements or added features or functions.
- 3.22 User: "User" shall mean any person or entity authorized by County to access or use the System or a System Component.
- 3.23 Work: "Work" shall mean any and all tasks, subtasks, Deliverables, goods, services and/or other work provided, or to be provided, by or on behalf of the Contractor pursuant to this Contract, including System components, System implementation services, System Maintenance and Optional Work.
- 3.24 Work Order(s): "Work Order(s)" shall mean a fully executed project ordering document for customizations to be provided by Contractor upon County's request and approval in accordance with the Contract. Each Work Order executed under Contract shall adhere to the format shown in Attachment II of this Exhibit A.

4.0 RESPONSIBILITIES

4.1 County's Responsibilities

County will administer the Contract according to Paragraph 6.0 (Administration of Contract – County) of the Contract. Specific duties will include:

- 4.1.1 Monitor Contractor's performance in the daily operation of the Contract.
- 4.1.2 Provide direction to Contractor in areas relating to policy, information and procedural requirements.
- 4.1.3 Prepare Change Notices in accordance with Paragraph 8.4 (Change Notices and Amendments) of the Contract.
- 4.1.4 Approval and Disapproval of Work

County shall have the right to approve or disapprove any Work, task, Deliverable, Work Order, goods, services and/or other work provided by Contractor.

In the event County disapproves of any Work, task, deliverable, Work Order, goods, services and other work provided by Contractor, Contractor shall have ten (10) days from Contractor's receipt of written notice of disapproval to correct, modify, supplement or otherwise remedy such disapproved matter and resubmit it to County for approval. In the event of a subsequent disapproval, County may request subsequent resubmissions, enter into a Dispute Resolution process, or declare the Contract in breach.

Unless expressly provided otherwise, any and all approval or acceptance by County under the Contract may be given, withheld, or denied in County's sole and absolute discretion.

4.2 Contractor's Responsibilities

- 4.2.1 Contractor shall designate a Project Manager who shall be a full-time employee of Contractor.
- 4.2.2 The Project Manager shall be the central point of contact for County and shall act as a liaison for Contractor in coordinating the performance under the Contract.

4.2.3 The Project Manager shall have the authority to act for Contractor on all matters relating to the daily operation of the Contract. The Project Manager or alternate shall be able to effectively communicate in English, both orally and in writing.

4.2.4 The Project Manager or alternate shall attend meetings as requested by County.

4.2.5 Other Contractor Personnel

4.2.5.1 Contractor shall assign a sufficient number of employees to perform the required Work under the Contract and to complete all services in a timely manner.

4.2.5.2 All personnel providing services in conjunction with the Contract shall be required to sign a "Contractor Employee Acknowledgment, Confidentiality and Copyright Assignment Agreement", as set forth in Subparagraph 7.3.4 of the Contract. During the term of the Contract, Contractor shall maintain an updated file of the signed forms and shall forward copies of all signed forms to the County Project Manager.

4.2.5.3 Contractor shall, to the maximum extent possible, maintain a constant level of staffing for County's Contract. Contractor shall promptly fill any staff vacancy with employees having qualifications at least equivalent to those of the staff being replaced.

4.2.6 Contractor Employee Acceptability

4.2.6.1 Contractor shall provide County with the names of its staff assigned to work on County's Contract.

4.2.6.2 Contractor shall not subcontract with any personnel for performance of services hereunder unless the provisions for Paragraph 8.39 (Subcontracting) of the Contract are met.

4.2.7 Materials and Equipment

Contractor shall be responsible for the purchase of all hardware, software, and all other materials and equipment necessary to provide these Contract services. Contractor shall use materials

that are safe for the environment and safe for use by its employees.

4.2.8 Contractor's Office and Hours of Operation

4.2.8.1 Contractor shall maintain an office with a telephone in the company's name where Contractor conducts business. The office shall be staffed during the hours of 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday, excluding holidays observed by the Contractor, by at least one employee, who can appropriately respond to the priority level of an issue, any service requests, and complaints which may be received about Contractor's performance of the Contract. Contractor shall provide County with a telephone number to call when Contractor's office is closed.

4.2.8.2 Emergency Notifications

Contractor Project Manager and County Project Manager, or their respective designees, shall be accessible twenty-four (24) hours a day, seven (7) days a week to each other and/or other County staff for emergency reporting or consultation. Contractor shall provide an emergency telephone number where Contractor Project Manager, or designee, may be reached twenty-four (24) hours per day.

5.0 SPECIFIC WORK REQUIREMENTS

It is County's expectation that Contractor will complete the tasks specified below in a manner which will contribute to and result in the completion of deliverables outlined herein. Contractor shall be responsible for any penalty incurred due to the failure of Contractor's hardware, software, or hosting services as defined in this Exhibit A, providing such failure is not caused by an unreasonable delay or unreasonable lack of cooperation by County.

5.1 Basic Monthly Maintenance and Support

Contractor shall maintain all software and hardware necessary to successfully operate the System, including Third Party Software, in reliable and fully operational condition.

Basic Monthly Maintenance and Support shall include, but is not limited to maintenance and support, software updates, data processing support and maintenance, hosting services and FROI/SROI –EDI support.

Upon receiving notification by County of any deficiency or repair found in any of the tasks specified in this Subparagraph 5.1, Contractor shall take Corrective Actions, as prescribed in the Service Level Agreement, Attachment II of this Statement of Work.

5.1.1 Task #1 – Maintenance and Support Services

Deliverable: Services performed as prescribed in the Service Level Agreement.

Maintenance and Support Services shall include, but are not limited to any repair or maintenance required to the existing software, software licenses, and/or hardware provided by the Contractor, and to Third Party Software. Services shall also include assistance for inquiries and troubleshooting related to the Contractor's software and/or hardware and Third Party Software. Contractor shall provide the following:

- Assist Users with any technical issues;
- Perform routine System maintenance as specified in Paragraph 6.0 (Maintenance Schedule) of this Exhibit A;
- Increase Software Licenses upon written request from County;
- Diligently monitor Contractor's software, hardware, and Third Party Software
- Correct, issue and/or install Software and/or Hardware, such as security patches, whether or not defects have been reported to Contractor by County;
- Provide all technical personnel, equipment and tools sufficient to perform timely, effective repairs;
- Diagnose the reported problem and advise County of the estimated time to repair;
- Repair the reported problem, provide a procedure to work around the problem, or substantiate the determination that no repair is necessary;
- Test all repairs to ensure that the repair was successful and that the operation is defect-free;

- Coordinate all technical support services with County;
- Fully document any and all repair work provided to County; and
- Respond to any questions

5.1.1.1 Software Licenses

Additional Software Licenses requested by County shall be billed separately and in accordance with Subparagraph 5.5 (Invoices and Payments) of the Contract.

5.1.1.2 Software Updates

Provided that the Contract is still in effect at the end of the base term of the Contract, and every two (2) years thereafter, Contractor shall make an Upgrade to the software available to the County. There shall be no installation charge for any Upgrade which can be installed remotely without customization. County will cooperate as necessary to allow installation of any Upgrade and understands that its failure to do so may, in Contractor's sole discretion, relieve Contractor of any subsequent obligation under this provision. All Upgrades shall be delivered to County electronically via Contractor's host server.

5.1.1.3 Data Processing Support and Maintenance

Contractor shall provide biennial Upgrades and identify all data processing routines that will be affected by data entered for the current Fiscal Year (FY). Contractor shall determine the required changes to each data processing routine to ensure the current FY will be correctly processed.

For data processing routines that require changes, Contractor shall provide the following:

- Identify all data processing routines and the changes required to handle current FY data input or output. This shall include data acceptance and

internal calculations of dates up to and beyond the current FY;

- Submit a list of routines to be corrected to County;
- Make corrections to program code and test;
- Provide County with documentation of processing changes and data entry requirements for entering the current FY in data formats;
- Assist County as required in testing the data entry of the current FY;
- Upon successful completion of County's testing of data routines, install the defect-free replacement of relevant application code on the County data server.

5.1.1.4 Hosting Services

Hosting Services shall be Contractor's responsibility to provide a secure and efficient environment to house County's WC administration application and database. Contractor shall provide the following:

- Provide dedicated database server(s) for County use only, not shared with other Contractor clients; and
- Provide adequate data storage to accommodate County's current and future needs.

5.2 FROI/SROI-EDT Export Format Services

Contractor shall provide the functionality to allow County to:

- Provide claims data in readable formats to supply to the agreed upon EDI Exporter responsible for exporting data to the State;
- Provide the functionality to ensure that all claims that have been acknowledged by the State are documented as such, whether approved or denied; and

- Provide the functionality to allow County to furnish reports to TPAs listing claims that require correction as directed by the State of California (State).

5.2.1 Task #2: FROI/SROI – EDI Export Format Services

Deliverable: Compliant FROI/SROI Reporting

Contractor shall provide the functionality to allow County to:

- Report successfully and timely to the State within the mandated deadlines, namely provision of correctly formatted claims data ready for export with the frequency established by County;
- Capture all acknowledgments from the State; and
- Provide accurate reporting back to TPAs of acknowledgments.

In the event County determines it is in its best interest to change the agreed upon EDI Exporter, Contractor shall continue to be responsible for all services listed in this Subparagraph 5.3.1 and in the Contract in whole.

The software will provide the means by which County may run data routines and report data to the EDI Exporter and the State. Under no circumstance shall the Contractor be responsible for any penalties applied from the State caused by any action or deficiency by County or the EDI Exporter in running routines or reporting data.

5.3 Customizations

Contractor shall make customizations during the life of the Contract as requested, approved and accepted by County. County shall pay a minimum of two (2) hours at the rates specified in Exhibit B (Payment Schedule, Customization Costs (Hourly Rate)), for Contractor to examine the feasibility of and to develop preliminary specifications for the requested customization. The estimate submitted by the Contractor as stated on the "Authorization for Billable Services" form shall be valid for sixty (60) days from the date submitted. All completed customizations shall be subject to final County approval and shall automatically become a part of the Contract. Should Contractor find that a customization to an upgraded and/or updated application is not feasible, Contractor shall

provide its written justification to County within seven (7) business days upon reaching such finding.

5.3.1 Task #3 – General Customizations

Deliverable: Software Customization

County shall submit the Request for Estimate (RFE) form, as provided in Attachment II to this Exhibit A to initiate customization requests.

6.0 MAINTENANCE SCHEDULE

To mitigate delays in System performance, Contractor shall provide all daily, routine and normal System maintenance between the hours of 10:00 p.m. and 6:00 a.m. Pacific Time, seven (7) days per week. Should Contractor find that an unexpected maintenance service is required outside of the regular Maintenance Schedule, Contractor shall attempt to provide County with at least forty-eight (48) hours notice. Contractor and County may request to change the Maintenance Schedule pursuant to Paragraph 8.4 (Change Notices and Amendments) of the Contract; however, County shall have the right of final acceptance and approval of any such change.

7.0 DATA STORAGE

All County data shall be stored on Contractor's equipment at Contractor's place of business specified in Exhibit E (Contractor's Administration). In the event that Contractor finds that any or all County data must be transferred to another location within the continental United States, Contractor shall notify County prior to such transfer. If Contractor finds that any or all County data must be transferred to a location outside the continental United States, Contractor shall obtain County's approval prior to such transfer. Contractor shall provide all such transfer of data at its own expense, and County will not be responsible for any related interruptions or impairments of the Hosting Services, as specified herein.

Contractor shall provide County with at least sixty (60) days notice of its intent to transfer County data to any other location. At a minimum, Contractor shall include the following information regarding the transfer of data:

- Purpose for transferring data;
- Address of the new location;
- Transfer timeline

County, at its discretion, may require Contractor to prepare an Implementation Package for the transfer, as defined in Subparagraph 3.12 (Implementation Package) of this Exhibit A.

8.0 SECURITY

Contractor shall provide County with documented proof of the program measures taken to safeguard County data housed by Contractor, including the security of the environment in which County data is imported and exported to and from Contractor. The proof document shall include the architectural design of the security program pursuant to the requirements of this Contract.

9.0 OWNERSHIP AND TRANSITION

All computerized claim data and computerized claim files shall be the property of the County and shall be returned to County or delivered to a new service provider, as designated by the County. Contractor understands that all such data and files are the property of County and not Contractor.

In the event that County implements a new workers compensation claims administration system provided by a new contractor, Contractor shall fully cooperate with County and agrees to continue to provide services under this Contract until transition is complete and County accepts and approves new system. Should this Contract expire before County accepts and approves new system, Contractor agrees to extend this Contract pursuant to Paragraph 8.4 (Change Notices and Amendments) of the Contract.

PROVISION IN CURRENT SOW:

Upon expiration or termination of the Contract, or in the event the County elects not to extend the Contract at the end of a term, or otherwise terminates the Contract for default, convenience or insolvency, Contractor shall fully cooperate with County during the transition to whatever service replacement method County determines to be in its best interest.

10.0 TRAINING

In the event County should require training for services not listed in Subparagraph 5.1 herein, Contractor shall provide training at the rates specified in Exhibit B (Payment Schedule). Contractor shall recommend training curriculum and provide qualified instructor(s), appropriate and related training materials and training facility.

10.1 Instructor's Travel and Lodging Expenses

Travel and lodging expenses of instructor(s) providing training under the Contract shall be billed separately. The invoices for such expenses shall be prepared and submitted in accordance with Subparagraph 5.5 (Invoices and Payments) of the Contract.

11.0 MINIMUM REQUIREMENTS FOR USERS

Contractor shall provide County with a list of minimum requirements needed for all System Users (including, but not limited to, CEO, County Counsel, client County departments and WC TPAs) to utilize the System. The list of minimum requirements shall include, at a minimum, connectivity requirements, hardware requirements and software applications. Contractor shall contact Users for requirements information, as instructed by County.

12.0 REPORT DESIGN

Contractor shall continue to provide and/or make available, with the same frequency and distribution requirements, all reports currently being received and/or accessed by County.

13.0 QUALITY ASSURANCE PLAN

County shall evaluate Contractor's performance under the Contract in accordance with the procedures as specified in Paragraph 8.15 (County's Quality Assurance Plan), of the Contract.

14.0 BUSINESS CONTINUITY PLAN

Contractor shall provide to County a written Business Continuity Plan that specifies a structured and integrated process that ensures uninterrupted provision of critical services related to the Contract, following an event that could interrupt the business operations. The plan shall include, but not be limited to, the following:

- Contractor policies and procedures to assure County's continued operation following an event;
- A description of County critical services and business processes prioritized according to importance;
- Establish viable recovery time frames relative to its impact to County's operations;

- Alternative business processes and/or location information, including address, description of equipment in use, telephone and facsimile numbers, key contact and other critical information.

Contractor shall provide County with annual plan updates, due on the anniversary of the Contract.

The Business Continuity Plan is subject to County approval. County will not be required to identify deficiencies in Contractor's Business Continuity Plan. County shall neither assume responsibility nor liability for Contractor's Business Continuity Plan.

15.0 PERFORMANCE STANDARDS REQUIREMENTS (PSR) AND SERVICE LEVEL AGREEMENT (SLA)

The PSRs and SLAs, as specified in Attachment I to this Exhibit A are intended to be completely consistent with the terms and conditions of this Contract and Statement of Work, and are not meant or intended in any case to create, extend, revise, or expand any Contractor obligation or responsibility beyond that which is defined in the Contract or Statement of Work. In the event of any apparent inconsistency between services specified in the Contract, Exhibit A, the PSR and SLA, the meaning apparent in the Contract and Exhibit A will prevail. If the PSR and/or SLA seem to have created services that are not clearly set forth in the Contract and Exhibit A, those services will be null and void and place no requirement on the Contractor.

PERFORMANCE STANDARDS REQUIREMENTS CHART

When Contractor's performance does not conform to the requirements of the Contract or if Contractor does not meet or maintain the agreed upon service levels, County will have the option to apply the following remedies providing such failure is not caused by an unreasonable delay or unreasonable lack of cooperation by County.

STANDARD	REMEDY
Deliverables for Task #1: Maintenance and Support Services	Failure to meet any part of this Deliverable may result in the termination of Contract for default as determined by County in its sole discretion.
Deliverables for Task #2: Compliant FROI/SROI Reporting	Failure to meet the terms of this Deliverable as a result of Contractor's negligence may result in a penalty of up to 15% of the FROI/SROI State Reporting annual costs specified in Exhibit B (Payment Schedule). Penalties will be determined by County and may be ongoing until deliverable is completed to County's satisfaction. Under no circumstance shall the County be responsible for any penalties applied by the State due to any action or deficiency for which Contractor is responsible.

SERVICE LEVEL AGREEMENT (SLA)

I. Maintenance and Support Services

A. Technical Support

1. Contractor shall provide help desk support via telephone, facsimile and/or email. The County has and will continue to have a dedicated support representative along with backup representatives in the event its dedicated representative is unavailable.
2. Contractor and County shall prioritize all issues, defects, and other errors according to the following schedule:

PRIORITY	DEFINITION
1	A problem causing critical impact to County's operation and no acceptable workaround is immediately available. Contractor shall respond to County within two (2) hours. After normal business hours, including weekends, Contractor shall respond to notifications made by the County Project Manager or designee within two (2) hours of such notification. Work begins as soon as possible after notification and continues until problem is resolved or a workaround is available. If resolution requires a software correction, it is delivered to County as soon as the correction is available.
2	A problem causing significant (but not critical) impact to County's operation and no acceptable workaround is immediately available. Work begins after County's Priority 1 issues are resolved as specified in Definition 1 above, and continues until the problem is resolved or a workaround is available. If resolution requires a software correction, it is delivered to County as soon as the correction is available.
3	A problem that impairs the functionality of performance, but County can work around it without undue effort. Contractor will investigate the problem, decide if a workaround is acceptable and if resolution requires a software correction. If a software correction is required, Contractor may schedule the correction for a future release and/or provide patch as soon as possible.
4	A request for information or assistance that is not of a serious nature, but that cannot be handled immediately over the telephone. A software error or defect exists but does not impede any functionality or performance. Contractor will suggest a workaround to County. If a software correction is required, Contractor may schedule the correction for a future release and/or provide a patch as soon as possible.

B. Hardware Maintenance

All servers are constantly monitored and updated with the latest patches and releases from each respective vendor. Microsoft security patches are maintained using WSUS (Windows Security Update Server). These patches are downloaded and installed automatically upon authorization of the network administrator. WSUS polls for updates on an hourly basis and alerts the administrator as soon as patches are available. Service Packs are downloaded as soon as they are available. They are installed on test servers, and then on corporate production servers. Once they have been verified for internal production, then they are scheduled for installation on the ASP environment.

1. Upon release of a new version of the operating system or database version, Contractor will schedule a certifications test. County will receive regular updates to the application software. As part of the application upgrade, Contractor will review the operating system and database versions running on the database server. If there is a new version of either that has been certified by Contractor, it will be installed along with the new version of the application.
2. In addition, as part of the application upgrade, any microcode or firmware updates available for the database server are installed as well. In the event that a maintenance level update for the operating system is determined to be of a critical nature that cannot wait for an application upgrade, it will be scheduled and installed along with any microcode or firmware updates as soon as possible.
3. During each application upgrade, all hardware is reviewed. Any hardware not meeting all functional and security requirements is replaced. The average tenure for servers in the ASP environment is 3-5 years.

C. Systems Operations

1. Contractor ensures the following system operation service levels:
 - a. 24X7X365 real-time monitoring and alerting of every element of the ASP environment is conducted to track the overall health of systems and proactively address any possible problematic areas.

- b. Fault-tolerant, redundant and failover systems are in place to ensure high availability, data integrity and that no single points of failure exist for the maximum possible up-time.
- c. Occasionally the internet service provider that services the GenSource ASP datacenter will perform regularly scheduled maintenance which could affect internet communications to the datacenter. The scheduled maintenance is performed after-hours or on weekends and will be communicated to County as soon as Contractor is aware of the planned maintenance which usually ranges from fifteen (15) minutes to one (1) hour in duration.

D. Back-up and Discovery Recovery

- 1. Contractor's back-up and recovery services currently in place are:
 - a. Full back-ups are performed on all production servers nightly. In addition, server images are taken prior to any updates.
 - b. Back-up tapes are sent to an off-site data storage site each weeknight. The monthly back-up set is saved permanently at the site.
 - c. Restore time is dependent on the amount of data needed, the type of restore (software or data) and the date of the restore. If the required tape is off-site, it can be retrieved in less than two (2) hours. The time for a restore could vary from thirty (30) minutes to four (4) hours.
 - d. All servers and communication equipment are connected to an Uninterrupted Power Supply. Contractor's current back-up site is _____.
- 2. The current data center is equipped with early warning smoke detection system that will automatically drop the temperature, as well as smoke detectors that release dry flame retardant. The data center is accessible only via key cards, which are held by a limited number of Contractor personnel.

E. Software Licenses

Notifications are immediately provided by each respective software vendor upon the release of any new hot fix or service pack. All hot fixes and service packs are installed and tested in a test environment. Upon

successful completion of the test, they are scheduled for installation in production.

For claims management applications, a new release will be installed every two (2) years. In the interim, any fixes or enhancements done for the County or any critical fixes will be installed as soon as they have tested.

F. Software Updates

Once a patch has successfully completed Contractor's internal quality assurance (QA) process, it is installed in a test environment on the County servers. Once Contractor's internal QA team has tested it, County will be given the opportunity to test it. Upon approval by County, the changes are moved into the production environment.

Enhancements are normally included in the new version of the software released each year. The County's maintenance requirements provides for the installation of a new release every other year. If an enhancement is deemed critical such that the County cannot wait for a next version of the software, it will be installed as specified for software patches.

New releases are created once a year. A new release will be installed on the County servers every other year. Contractor will assign a project manager to oversee the installation of the new release. Contractor will submit a project plan for the installation, that will include requirements session, training and user acceptance testing.

Any new release of a third party software that integrates with the application software will be subject to compatibility testing. Once tested, the new versions will be installed with the next application upgrade. If third party software is shared across the client base, then the new version will be installed for all clients during the next client upgrade. All clients will be notified in advance of the change in order to give time for testing the new version in a test environment.

P&C CLAIMS

**REQUEST FOR CUSTOMIZATION, BILLABLE SERVICES
AND
AUTHORIZATION PROCEDURES**

This is an overview of P&C Claims Client Support procedures for processing Request for Estimates and Authorization for Billable Services.

Request for Estimate

1. Client completes and sends a Request for Estimate (RFE), copy attached to its P&C Claims Client Support Representative (Support Rep).
2. Support Rep saves an electronic copy of the RFE in the online Client Support files.
3. Support Rep opens a tracking database case. This database is used for internal work assignments and recording status.
4. Support Rep forwards RFE to upper management for work approval.
5. If approved, Support Rep opens a project in the database used for timekeeping and billing purposes.
6. Support Rep sends approval or rejection notice to client.
7. Support Rep distributes the approved RFE to consulting and the product manager for analysis and design of project, in order to determine the estimate of work.
8. Support Rep assigns the work in the tracking database to the product manager or consulting.

Authorization for Billable Services

1. Estimator performs the analysis of the project.
2. Estimator gives the estimate to Support Rep and assigns track back to the Support Rep for communicating an Authorization of Billable Services to the client.
3. Support Rep coordinates and collects the estimated hours for completion of the work request from all departments.
4. Support Rep assembles the quote on an Authorization form, copy attached, and emails the quoted Authorization for Billable Services to client.
 - Support Rep saves a copy of the Authorization in the online Client Support files.
 - Support Rep updates the tracking database with the quoted hours and client communication information.
5. The client either:
 - Accepts, signs and returns the Authorization for Billable Services to the Support Rep, or
 - Rejects the Authorization for Billable Services
6. If authorization is rejected, the project is cancelled in the database and the track is closed.
7. If authorization is accepted, the Support Rep
 - Updates the online Client Support files, tracking and project databases.
 - Assigns the work to the product or operations manager.
 - Distributes the Authorization to the appropriate internal department personnel.
8. Monthly hours are invoiced to the client based on actual work completed on the project in the previous month. Invoicing continues through project completion.

9. Upon project completion and internal quality assurance, a service patch is generated and installed on the client's test environment for client testing.
10. The client tests and informs the Support Rep that the change is approved for production use.
11. The Support Rep schedules a time for programming to install the program changes into the production accounts.
12. The charges are moved into Live Production.

PAYMENT SCHEDULE

**BASE TERM YEAR 1
MARCH 1, 2012 – FEBRUARY 28, 2013**

SERVICE	COST (ANNUAL)
<p>MONTHLY MAINTENANCE AND SUPPORT:</p> <p>Includes: Fees to subsidize ongoing costs including application software maintenance, administrative support services, backups, recovery, software licenses, computer hardware and overhead costs, and third party software¹ maintenance. (\$20,400/month)</p>	\$244,800.00
<p>HEALTH TECH EDI REPORTING TO THE STATE OF CALIFORNIA:</p> <p>Subcontractor: Health Tech Transaction and maintenance fees for mandated electronic data submission:</p> <ul style="list-style-type: none"> • EDI to and from the State • First Report of Injury and/or Subsequent Reports of Injury • Acknowledgment and Error Reporting <p>Annual volume of expected transmission: >150,000</p>	\$103,500.00
<p>TRAINING:</p> <p>User training as requested by the County and priced according to hourly rates specified in Page B-6</p>	\$20,000.00
<p>OPTIONAL WORK:</p> <p>For changes required for System programming, reporting, support services, increase in user licenses, and migration to next generation platform</p>	\$300,000.00
<p>BASE TERM YEAR 1 MAXIMUM COST</p>	\$668,300.00

¹ Prices of third party products are subject to change at any time without notice.

PAYMENT SCHEDULE

**BASE TERM YEAR 2
MARCH 1, 2013 – FEBRUARY 28, 2014**

SERVICE	COST (ANNUAL)
<p>MONTHLY MAINTENANCE AND SUPPORT:</p> <p>Includes: Fees to subsidize ongoing costs including application software maintenance, administrative support services, backups, recovery, software licenses, computer hardware and overhead costs, and third party software¹ maintenance (\$20,808/month)</p>	<p>\$249,696.00</p>
<p>HEALTH TECH EDI REPORTING TO THE STATE OF CALIFORNIA:</p> <p>Subcontractor: Health Tech Transaction and maintenance fees for mandated electronic data submission:</p> <ul style="list-style-type: none"> • EDI to and from the State • First Report of Injury and/or Subsequent Reports of Injury • Acknowledgment and Error Reporting <p>Annual volume of expected transmission: >150,000</p>	<p>\$103,500.00</p>
<p>TRAINING:</p> <p>User training as requested by the County and priced according to hourly rates specified in Page B-6</p>	<p>\$20,000.00</p>
<p>OPTIONAL WORK:</p> <p>For changes required for System programming, reporting, support services, increase in user licenses, and migration to next generation platform</p>	<p>\$300,000.00 Aggregate</p>
<p>BASE TERM YEAR 2 MAXIMUM COST</p>	<p>\$673,196.00</p>

¹ Prices of third party products are subject to change at any time without notice.

**PAYMENT SCHEDULE
2 YEAR OPTION PERIOD
MARCH 1, 2014 – FEBRUARY 28, 2016**

SERVICE	COST (ANNUAL)
<p>MONTHLY MAINTENANCE AND SUPPORT:</p> <p>Includes: Fees to subsidize ongoing costs including application software maintenance, administrative support services, backups, recovery, software licenses, computer hardware and overhead costs, and third party software¹ maintenance (\$21,224/month for first year and \$21,649/month for second year)</p>	<p>\$514,476.00</p>
<p>HEALTH TECH EDI REPORTING TO THE STATE OF CALIFORNIA:</p> <p>Subcontractor: Health Tech Transaction and maintenance fees for mandated electronic data submission:</p> <ul style="list-style-type: none"> • EDI to and from the State • First Report of Injury and/or Subsequent Reports of Injury • Acknowledgment and Error Reporting <p>Annual volume of expected transmission: >150,000 Estimated cost = \$103,500.00 each year</p>	<p>\$207,000.00</p>
<p>TRAINING:</p> <p>User training as requested by the County and priced according to hourly rates specified in Page B-6 Cost not to exceed \$20,000 per year</p>	<p>\$40,000.00</p>
<p>OPTIONAL WORK:</p> <p>For changes required for System programming, reporting, support services, increase in user licenses, and migration to next generation platform</p>	<p>\$400,000.00 Aggregate</p>
<p>2 YEAR OPTIONAL PERIOD MAXIMUM COST</p>	<p>\$1,161,476.00</p>

¹ Prices of third party products are subject to change at any time without notice.

OPTIONAL WORK COSTS (HOURLY RATE)

SERVICES	BASE TERM (3/1/12 -2/28/14)		2 YEAR OPTION (3/1/14 – 2/29/16)	
	Regular	Rush/ Offshift	Regular	Rush/ Offshift
Application Services				
Consulting	\$200.00	\$400.00	\$200.00	\$400.00
Training (Over the Phone)	\$200.00	\$400.00	\$200.00	\$400.00
Documentation	\$200.00	\$400.00	\$200.00	\$400.00
Programming Services				
Analysis	\$200.00	\$400.00	\$200.00	\$400.00
New Product Installation	\$200.00	\$400.00	\$200.00	\$400.00
Customization	\$200.00	\$400.00	\$200.00	\$400.00
Data Recovery Services	\$200.00	\$400.00	\$200.00	\$400.00

CONTRACTOR'S EEO CERTIFICATION

P&C Claims, Inc.
 Contractor Name
55 Broadway, Suite 3002, New York, NY 10006
 Address
27-1403836
 Internal Revenue Service Employer Identification Number

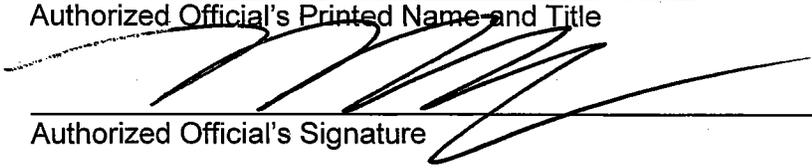
GENERAL CERTIFICATION

In accordance with Section 4.32.010 of the Code of the County of Los Angeles, the contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

CONTRACTOR'S SPECIFIC CERTIFICATIONS

- 1. The Contractor has a written policy statement prohibiting discrimination in all phases of employment. Yes No
- 2. The Contractor periodically conducts a self analysis or utilization analysis of its work force. Yes No
- 3. The Contractor has a system for determining if its employment practices are discriminatory against protected groups. Yes No
- 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. Yes No

McRae B Johnston
 Authorized Official's Printed Name and Title


 Authorized Official's Signature

January 25, 2012
 Date

COUNTY'S ADMINISTRATION

CONTRACT NO. _____

COUNTY CONTRACT ADMINISTRATOR:

Name: Laurie Milhiser (or designee)
 Title: Assistant Chief Executive Officer
 Address: Chief Executive Office – Risk Management Branch
3333 Wilshire Blvd., Suite 820
Los Angeles, CA 90010
 Telephone: (213) 351-5346 Facsimile: (213) 252-0405
 E-Mail Address: lmilhiser@ceo.lacounty.gov

COUNTY MANAGER:

Name: Alex Rossi
 Title: Manager, CEO
 Address: Chief Executive Office – Risk Management Branch
3333 Wilshire Bl., Suite 1000
Los Angeles, CA 90010
 Telephone: (213) 738-2154 Facsimile: (213) 252-0404
 E-Mail Address: arossi@ceo.lacounty.gov

COUNTY PROJECT MANAGER:

Name: Carl Yuan
 Title: Program Specialist, CEOI
 Address: Chief Executive Office – Information Technology Service
500 W. Temple Street, Room 781
Los Angeles, CA 90012
 Telephone: (213) 974-4297 Facsimile: (213) 613-1001
 E-Mail Address: cyuan@ceo.lacounty.gov

Notice to County shall be sent to the following:

Name: Laurie Milhiser (or designee)
 Title: Assistant Chief Executive Officer
 Address: Chief Executive Office – Risk Management Branch
3333 Wilshire Blvd., Suite 820
Los Angeles, CA 90010
 Telephone: (213) 351-5346 Facsimile: (213) 252-0405
 E-Mail Address: lmilhiser@ceo.lacounty.gov

CONTRACTOR'S ADMINISTRATION

CONTRACTOR'S NAME: P&C Claims, Inc.

CONTRACT NO: _____

CONTRACTOR'S PROJECT MANAGER:

Name: Jan Kubota

Title: Client Services Manager

Address: 24911 Avenue Stanford, Suite 206
Valencia, CA 91355

Telephone: (661) 294-1300

Facsimile: _____

E-Mail Address: jkubota@pcisvision.com

CONTRACTOR'S AUTHORIZED OFFICIAL(S)

Name: Georgette Loizu

Title: Executive Vice President

Address: Trinity Centre, 111 Broadway, 17th Floor
New York, NY 10006

Telephone: (646) 442-8810

Facsimile: _____

E-Mail Address: gloizu@pcisvision.com

Name: _____

Title: _____

Address: _____

Telephone: _____

Facsimile: _____

E-Mail Address: _____

Notices to Contractor shall be sent to the following:

Name: Georgette Loizu

Title: Executive Vice President

Address: Trinity Centre, 111 Broadway, 17th Floor
New York, NY 10006

Telephone: (646) 442-8810

Facsimile: _____

E-Mail Address: gloizu@pcisvision.com

CONTRACTOR EMPLOYEE ACKNOWLEDGMENT, CONFIDENTIALITY
AND COPYRIGHT ASSIGNMENT AGREEMENT

Contractor Name _____

Contract No. _____

Employee Name _____

GENERAL INFORMATION:

Your employer referenced above has entered into a contract with the County of Los Angeles to provide certain services to the County. The County requires your signature on this Contractor Employee Acknowledgement, Confidentiality, and Copyright Assignment Agreement.

EMPLOYEE ACKNOWLEDGEMENT:

I understand and agree that the Contractor referenced above is my sole employer for purposes of the above-referenced contract. I understand and agree that I must rely exclusively upon my employer for payment of salary and any and all other benefits payable to me or on my behalf by virtue of my performance of work under the above-referenced contract.

I understand and agree that I am not an employee of the County of Los Angeles for any purpose whatsoever and that I 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 contract. I understand and agree that I do not have and 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.

I understand and agree that I may be required to undergo a background and security investigation(s). I understand and agree that my continued performance of work under the above-referenced contract is contingent upon my passing, to the satisfaction of the County, any and all such investigations. I understand and agree that my failure to pass, to the satisfaction of the County, any such investigation shall result in my immediate release from performance under this and/or any future contract.

CONFIDENTIALITY AGREEMENT:

I may be involved with work pertaining to services provided by the County of Los Angeles and, if so, I may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, I 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. I understand that if I am involved in County work, the County must ensure that I, too, will protect the confidentiality of such data and information. Consequently, I understand that I must sign this agreement as a condition of my work to be provided by my employer for the County. I have read this agreement and have taken due time to consider it prior to signing.

**CONTRACTOR EMPLOYEE ACKNOWLEDGMENT, CONFIDENTIALITY
AND COPYRIGHT ASSIGNMENT AGREEMENT**

I hereby agree that I will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced contract between my employer and the County of Los Angeles. I agree to forward all requests for the release of any data or information received by me to my immediate supervisor.

I 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, Contractor proprietary information and all other original materials produced, created, or provided to or by me under the above-referenced contract. I agree to protect these confidential materials against disclosure to other than my employer or County employees who have a need to know the information. I agree that if proprietary information supplied by other County vendors is provided to me during this employment, I shall keep such information confidential.

I agree to report to my immediate supervisor any and all violations of this agreement by myself and/or by any other person of whom I become aware. I agree to return all confidential materials to my immediate supervisor upon completion of this contract or termination of my employment with my employer, whichever occurs first.

COPYRIGHT ASSIGNMENT AGREEMENT

I agree that all materials, documents, software programs and documentation, written designs, plans, diagrams, reports, software development tools and aids, diagnostic aids, computer processable media, source codes, object codes, conversion aids, training documentation and aids, and other information and/or tools of all types, developed or acquired by me in whole or in part pursuant to the above referenced contract, and all works based thereon, incorporated therein, or derived therefrom shall be the sole property of the County. In this connection, I hereby assign and transfer to the County in perpetuity for all purposes all my 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, I 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 in a form substantially similar to Exhibit M1, attached hereto and incorporated herein by reference.

The County shall have the right to register all copyrights in the name of the County of Los Angeles and shall 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.

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

SIGNATURE: _____

DATE: ____/____/____

PRINTED NAME: _____

POSITION: _____

CONTRACTOR NON-EMPLOYEE ACKNOWLEDGMENT, CONFIDENTIALITY
AND COPYRIGHT ASSIGNMENT AGREEMENT

Contractor Name _____

Contract No. _____

Non-Employee Name _____

GENERAL INFORMATION:

The Contractor referenced above has entered into a contract with the County of Los Angeles to provide certain services to the County. The County requires your signature on this Contractor Non-Employee Acknowledgement, Confidentiality, and Copyright Assignment Agreement.

NON-EMPLOYEE ACKNOWLEDGEMENT:

I understand and agree that the Contractor referenced above has exclusive control for purposes of the above-referenced contract. I understand and agree that I must rely exclusively upon the Contractor referenced above for payment of salary and any and all other benefits payable to me or on my behalf by virtue of my performance of work under the above-referenced contract.

I understand and agree that I am not an employee of the County of Los Angeles for any purpose whatsoever and that I 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 contract. I understand and agree that I do not have and 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.

I understand and agree that I may be required to undergo a background and security investigation(s). I understand and agree that my continued performance of work under the above-referenced contract is contingent upon my passing, to the satisfaction of the County, any and all such investigations. I understand and agree that my failure to pass, to the satisfaction of the County, any such investigation shall result in my immediate release from performance under this and/or any future contract.

CONFIDENTIALITY AGREEMENT:

I may be involved with work pertaining to services provided by the County of Los Angeles and, if so, I may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, I 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. I understand that if I am involved in County work, the County must ensure that I, too, will protect the confidentiality of such data and information. Consequently, I understand that I must sign this agreement as a condition of my work to be provided by the above-referenced Contractor for the County. I have read this agreement and have taken due time to consider it prior to signing.

CONTRACTOR NON-EMPLOYEE ACKNOWLEDGMENT, CONFIDENTIALITY AND COPYRIGHT ASSIGNMENT AGREEMENT

I hereby agree that I will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced contract between the above-referenced Contractor and the County of Los Angeles. I agree to forward all requests for the release of any data or information received by me to the above-referenced Contractor.

I 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, Contractor proprietary information, and all other original materials produced, created, or provided to or by me under the above-referenced contract. I agree to protect these confidential materials against disclosure to other than the above-referenced Contractor or County employees who have a need to know the information. I agree that if proprietary information supplied by other County vendors is provided to me, I shall keep such information confidential.

I agree to report to the above-referenced Contractor any and all violations of this agreement by myself and/or by any other person of whom I become aware. I agree to return all confidential materials to the above-referenced Contractor upon completion of this contract or termination of my services hereunder, whichever occurs first.

COPYRIGHT ASSIGNMENT AGREEMENT

I agree that all materials, documents, software programs and documentation, written designs, plans, diagrams, reports, software development tools and aids, diagnostic aids, computer processable media, source codes, object codes, conversion aids, training documentation and aids, and other information and/or tools of all types, developed or acquired by me in whole or in part pursuant to the above referenced contract, and all works based thereon, incorporated therein, or derived therefrom shall be the sole property of the County. In this connection, I hereby assign and transfer to the County in perpetuity for all purposes all my 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, I 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 in a form substantially similar to Exhibit M1, attached hereto and incorporated herein by reference.

The County shall have the right to register all copyrights in the name of the County of Los Angeles and shall 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.

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

SIGNATURE: _____

DATE: ____/____/____

PRINTED NAME: _____

POSITION: _____

Title 2 ADMINISTRATION
Chapter 2.203.010 through 2.203.090
CONTRACTOR EMPLOYEE JURY SERVICE

2.203.010 Findings.

The board of supervisors makes the following findings. The county of Los Angeles allows its permanent, full-time employees unlimited jury service at their regular pay. Unfortunately, many businesses do not offer or are reducing or even eliminating compensation to employees who serve on juries. This creates a potential financial hardship for employees who do not receive their pay when called to jury service, and those employees often seek to be excused from having to serve. Although changes in the court rules make it more difficult to excuse a potential juror on grounds of financial hardship, potential jurors continue to be excused on this basis, especially from longer trials. This reduces the number of potential jurors and increases the burden on those employers, such as the county of Los Angeles, who pay their permanent, full-time employees while on juror duty. For these reasons, the county of Los Angeles has determined that it is appropriate to require that the businesses with which the county contracts possess reasonable jury service policies. (Ord. 2002-0015 § 1 (part), 2002)

2.203.020 Definitions.

The following definitions shall be applicable to this chapter:

- A. "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-month period under one or more such contracts or subcontracts.
- B. "Employee" means any California resident who is a full-time employee of a contractor under the laws of California.
- C. "Contract" means any agreement to provide goods to, or perform services for or on behalf of, the county but does not include:
 - 1. A contract where the board finds that special circumstances exist that justify a waiver of the requirements of this chapter; or
 - 2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor; or
 - 3. A purchase made through a state or federal contract; or
 - 4. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, or reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-3700 or a successor provision; or
 - 5. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4.0 or a successor provision; or
 - 6. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-2810 or a successor provision; or
 - 7. A non-agreement purchase with a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section A-0300 or a successor provision; or
 - 8. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section PP-1100 or a successor provision.

- D. "Full time" means 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 chief administrative officer, or
 2. The contractor has a long-standing practice that defines the lesser number of hours as full time.
- E. "County" means the county of Los Angeles or any public entities for which the board of supervisors is the governing body. (Ord. 2002-0040 § 1, 2002: Ord. 2002-0015 § 1 (part), 2002)

2.203.030 Applicability.

This chapter shall apply to contractors who enter into contracts that commence after July 11, 2002. This chapter shall also apply to contractors with existing contracts which are extended into option years that commence after July 11, 2002. Contracts that commence after May 28, 2002, but before July 11, 2002, shall be subject to the provisions of this chapter only if the solicitations for such contracts stated that the chapter would be applicable. (Ord. 2002-0040 § 2, 2002: Ord. 2002-0015 § 1 (part), 2002)

2.203.040 Contractor Jury Service Policy.

A contractor shall have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five 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 employees' regular pay the fees received for jury service. (Ord. 2002-0015 § 1 (part), 2002)

2.203.050 Other Provisions.

- A. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.
- B. Compliance Certification. At the time of seeking a contract, a contractor shall certify to the county that it has and adheres to a policy consistent with this chapter or will have and adhere to such a policy prior to award of the contract. (Ord. 2002-0015 § 1 (part), 2002)

2.203.060 Enforcement and Remedies.

For a contractor's violation of any provision of this chapter, the county department head responsible for administering the contract may do one or more of the following:

1. Recommend to the board of supervisors the termination of the contract; and/or,
2. Pursuant to chapter 2.202, seek the debarment of the contractor. (Ord. 2002-0015 § 1 (part), 2002)

2.203.070. Exceptions.

- A. Other Laws. This chapter shall not be interpreted or applied to any contractor or to any employee in a manner inconsistent with the laws of the United States or California.
- B. Collective Bargaining Agreements. This chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. Small Business. This chapter shall not be applied to any contractor that meets all of the following:
 - 1. Has ten or fewer employees during the contract period; and,
 - 2. Has annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, are less than \$500,000; and,
 - 3. Is not an affiliate or subsidiary of a business dominant in its field of operation.

“Dominant in its field of operation” means having more than ten employees and annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, exceed \$500,000.

“Affiliate or subsidiary of a business dominant in its field of operation” means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 2002-0015 § 1 (part), 2002)

2.203.090. Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 2002-0015 § 1 (part), 2002)

ESCROW AGREEMENT

This Escrow Agreement (this "Agreement") dated as of _____, 20____, is entered into by and among P&C Claims, a Delaware corporation, _____ ("Licensee") and _____ (the "Escrow Agent").

- A. Licensee has entered into a license agreement (the "License Agreement") with P&C Claims for the license of certain computer programs specified in Escrow Agreement Exhibit A ("Licensed Computer Programs");
- B. Licensee desires to have access to the source code for the Licensed Computer Programs under certain specified conditions;
- C. P&C Claims has agreed to deliver to the Escrow Agent a copy of the source code for each Licensed Computer Program, together with any required key to decrypt such source code, specified on Escrow Agreement Exhibit A (individually and collectively, the "Source Code"); and
- D. The parties hereto have agreed upon and wish to set forth herein the terms and conditions of an escrow agreement with respect to the Source Code to be delivered to and held by the Escrow Agent.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Appointment of Escrow Agent**

P&C Claims and Licensee hereby appoint and designate the Escrow Agent as the escrow agent hereunder to receive, hold, maintain and release the Source Code in accordance with the terms of this Agreement. The Escrow Agent, by signing this Agreement, accepts appointment as escrow agent with respect to the Source Code, and agrees to receive, hold, maintain and release the Source Code in accordance with the terms of this Agreement. The Escrow Agent is not a party to, nor shall the Escrow Agent be concerned with the provisions of said License Agreement. No duties of the Escrow Agent may be implied by any agreement other than this Escrow Agreement.

2. **Deposits of Source Code**

Within five (5) business days after the execution of this Agreement, P&C Claims shall deposit with Escrow Agent a copy of the Source Code. The Source Code

EXHIBIT H

shall be held, maintained, and released by the Escrow Agent in accordance with the terms and conditions hereinafter set forth.

3. Maintenance of the Source Code

The Source Code shall, subject to the terms and conditions of this Agreement, be held in safe custody by the Escrow Agent. Except as expressly provided in this Agreement, Escrow Agent shall not disclose or otherwise make available to any person or entity other than Licensee or P&C Claims or make any use whatsoever of, any portion of the Source Code without the prior written consent of P&C Claims. The Escrow Agent does not insure that the Source Code will be held in any environment other than a vault, and Escrow Agent shall not be required to take any further precautions to control the humidity, temperature or environment in which the Source Code will be stored.

4. Release of Source Code

4.1 Request for Release

If, at any time Licensee is of the opinion that a Release Condition (as defined below) has occurred, Licensee may promptly provide P&C Claims and the Escrow Agent with a properly completed "Source Code Release Request" in the form attached hereto as Escrow Agreement Exhibit B. Any such request shall contain a detailed statement specifying the basis upon which Licensee has determined that a Release Condition exists. A "Release Condition" means any of the following: (i) P&C Claims permits or suffers to exist the commencement of any bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency law or any dissolution, winding up or liquidation proceeding, in respect thereof ("Proceeding"), and, if any such Proceeding is not commenced by P&C Claims, such Proceeding is consented to or acquiesced in any by P&C Claims, or results in the entry of an order for relief or shall remain for sixty (60) days undismissed, (ii) P&C Claims seeks, consents to or acquiesces in the appointment of any trustee, custodian, receiver or liquidator of P&C Claims or all or any substantial part of its properties (an "Appointment") or an order for an Appointment is entered, or (iii) P&C Claims ceases to maintain the Licensed Computer Program related to the Source Code requested to be released, or (iv) P&C Claims ceases its business operations.

4.2 Release if Uncontested

If P&C Claims does not contest a Source Code Release by written notice to Licensee and Escrow Agent delivered within fifteen (15) days after

EXHIBIT H

receipt of the Source Code Release Request, then the Escrow Agent shall promptly release and deliver the Source Code (in the cases of releases under clause (iii) of Subparagraph 4.1, limited to the Source Code for the Licensed Program(s) specified as no longer being maintained) to Licensee, who shall treat it in accordance with the provisions of the Source Code Release Request.

4.3 Release if Contested

If P&C Claims does contest a Source Code Release Request by written notice to Licensee and Escrow Agent delivered within fifteen (15) days after receipt of the Source Code Release Request, then the Escrow Agent shall hold the Source Code until jointly instructed by P&C Claims and Licensee, or until it receives an appropriate order of a court or arbitrator.

5. Term

Subject to earlier termination pursuant to Paragraph 6 or Paragraph 8, the Escrow shall continue until the Source Code is released. P&C Claims may request in writing to Escrow Agent and Licensee that the Source Code be released to it at any time when Licensee ceases to be a customer of P&C Claims and no Release Condition is then in effect. If Licensee does not contest such a request by P&C Claims by written notice to P&C Claims and Escrow Agent delivered within fifteen (15) days after receipt of the GSC request, then the Escrow Agent shall promptly release and deliver the Source Code to P&C Claims; otherwise the Escrow Agent shall hold the Source Code until jointly instructed by P&C Claims and Licensee, or until it receives an appropriate order of a court or arbitrator.

6. Fees and Expenses

The Escrow Agent shall be entitled to escrow fees and reasonable expenses in connection with the administration of this Agreement, all of which shall be paid by P&C Claims on behalf of Licensee; provided, however, that the aggregate amount of such escrow fees and expenses paid by Licensee shall not exceed two thousand five hundred dollars (\$2,500) in any calendar year (subject to increases based on cumulative increases in CPI and changes on any replacement of the Escrow Agent). If Licensee shall fail to pay any fee due hereunder within thirty (30) days after written notice of such failure (with a copy to the Escrow Agent), then this Agreement shall be terminated pursuant to Paragraph 5 (Term).

7. **Escrow Agent**

To induce the Escrow Agent to accept its appointment and act hereunder, P&C Claims and Licensee agree that:

7.1 **Depository**

The Escrow Agent shall act hereunder as a depository only, and shall not be concerned with the substance or contents of the Source Code.

7.2 **Documentation**

The Escrow Agent may act upon any written notice, request, waiver, consent, receipt or other instrument, document or other writing ("Documents") furnished to it which it believes to be genuine, not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and acceptability of any information therein contained. The Escrow Agent shall not be liable in connection with the performance by it of its duties pursuant to the provisions of any Document, which it believes to be genuine, except for its own gross negligence or willful misconduct..

7.3 **Liability**

The Escrow Agent shall not be liable for any act done or omitted by it, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, provided such act or omission is done without gross negligence or willful misconduct. In no event shall the Escrow Agent be liable to P&C Claims or Licensee for any damage to or loss of the Source Code due to any causes which are beyond the control of the Escrow Agent and not the result of its gross negligence or willful misconduct.

7.4 **Duties**

The Escrow Agent shall have no duties except those which are expressly set forth herein, which are purely ministerial in nature, and it shall not be bound by any notice of a claim, or demand with respect thereto, or any waiver, modification, amendment, termination or rescission of this Agreement, unless received in writing and signed by P&C Claims and Licensee, and if its duties herein are affected, unless it shall have given its prior written consent thereto.

7.5 Indemnification

P&C Claims and Licensee shall jointly and severally indemnify and hold the Escrow Agent, its employees, officers, agents, successors and assigns harmless from and against any and all losses, costs, damages or expenses (including reasonable attorneys' fees) ("Losses") it or they may sustain by reason of the Escrow Agent's service as escrow agent under this Agreement, except such any Losses incurred as a result of Escrow Agent's gross negligence or willful misconduct. The provisions of this Subparagraph shall survive the termination of this Agreement and the resignation or removal of the Escrow Agent.

7.6 Advice of Counsel

The Escrow Agent may act pursuant to the advice of counsel with respect to any matter relating to this Agreement and shall not be liable for any action taken or omitted in accordance with such advice that is not the result of Escrow Agent's gross negligence or willful misconduct. Such counsel shall be selected by the Escrow Agent in the sole discretion of the Escrow Agent, and the fees and expenses for such counsel shall constitute reasonable expenses in connection with the administration of this Agreement for purposes of Paragraph 6 of this Agreement.

7.7 Disputes

Except to the extent otherwise provided herein, if there is any disagreement between P&C Claims and Licensee resulting in adverse claims or demands being made in connection with the Source Code, or if the Escrow Agent in good faith is in doubt as to what action the Escrow Agent should take hereunder, then the Escrow Agent shall hold the Source Code until the Escrow Agent shall have received (i) a determination of a court of competent authority or a certified copy of an award of an arbitrator under an arrangement providing for no further appeal directing delivery of the Source Code, or (ii) a written agreement executed by P&C Claims and Licensee directing delivery of the Source Code in which event the Escrow Agent shall deliver the Source Code in accordance with such order or agreement. The Escrow Agent, at its option, shall be entitled to seek and, if obtained, rely conclusively upon an opinion of counsel to the effect that any court order delivered to Escrow Agent is sufficient to require delivery of the Source Code hereunder. The Escrow Agent shall be entitled to act on such court order and/or legal opinion without further question.

7.8 Limitation on Liability

In no event shall the Escrow Agent be liable, directly or indirectly, for any (i) damages or expenses arising out of the services provided hereunder, other than damages which result from the Escrow Agent's gross negligence or willful misconduct, or (ii) special or consequential damages, even if the Escrow Agent has been advised of the possibility of such damages.

8. Resignation or Termination

The Escrow Agent may resign as escrow agent by giving each of Licensee and P&C Claims not less than ninety (90) days written notice of the effective date of such resignation (the "Resignation Date"). Upon receiving such notice of resignation, Licensee and P&C Claims shall promptly appoint a successor escrow agent that is mutually acceptable to both parties. By mutual agreement, P&C Claims and Licensee shall have the right at any time upon not less than ten (10) days written notice to the Escrow Agent to terminate their appointment of the Escrow Agent as escrow agent hereunder, which notice shall specify the effective date of such termination (the "Termination Date"). The Escrow Agent shall continue to act as escrow agent under this Agreement until the Resignation Date or Termination Date, as the case may be. Licensee and P&C Claims shall use their reasonable efforts to appoint a successor escrow agent to fulfill the duties of the Escrow Agent hereunder for the remaining term of this Agreement in the event of the Escrow Agent's resignation or termination. Upon the acceptance by the successor escrow agent of its appointment in a writing signed by each of P&C Claims, Licensee and successor escrow agent, the successor escrow agent shall thereupon become the Escrow Agent hereunder effective on the Resignation Date or Termination Date. On the Resignation Date or Termination Date, the resigning Escrow Agent shall deliver the Source Code to the successor escrow agent. If on or prior to the Resignation Date, the resigning Escrow Agent has not received written instructions from Licensee and P&C Claims of a successor escrow agent, it may petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief.

9. Notices

Any notices or other communications required or permitted hereunder shall be sufficiently given if done so in writing and sent by certified mail, postage prepaid; if to Licensee, address to it at _____ Attn: _____; if to P&C Claims, address to it at _____; or in any case to such other address as shall be

furnished in writing by such party. Such notices or other communications so given shall be deemed to have been given on the date so mailed.

10. **Miscellaneous**

10.1 **Governing Law**

This Agreement shall be construed and governed in accordance with the internal laws of the State of California without regard to conflicts of laws principles.

10.2 **Complete Agreement**

This Agreement and any documents referred to herein or executed contemporaneously herewith constitute the parties' entire agreement with respect to the subject matter hereof and supersede all prior written and oral agreements, representations, warranties, statements, promises and understandings, and all contemporaneous oral agreements, representations, warranties, statements, promises and understandings, with respect to the subject matter hereof.

10.3 **Amendment and Waivers**

This Agreement may be amended, modified or supplemented, and compliance with any provision of this Agreement may be waived, only by a writing signed by each of P&C Claims, Licensee and the Escrow Agent.

10.4 **Assignment**

This Agreement shall be binding upon and inure to the benefit of P&C Claims, Licensee, the Escrow Agent and their respective successors-in-interest and permitted assigns. Except as expressly provided in this Agreement, none of the parties may assign any of its rights or obligations under this Agreement without the prior written consent of the other parties hereto.

10.5 **Waivers**

With regard to any power, remedy or right provided herein or otherwise available to any party hereunder (1) no waiver or extension of time will be effective unless expressly contained in a writing signed by the waiving party; and (ii) no alteration, modification or impairment will be implied by reason of any previous waiver, extension of time, delay or omission in exercise, or other indulgence.

EXHIBIT H

10.6 Severability

In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

10.7 Counterparts; Deliveries

This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement and any amendments hereto, to the extent signed and delivered by means of a facsimile machine or other electronic transmission, shall be treated in all manner and respects and for all purposes as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

10.8 Authorized Signatures

The Company and Licensee shall executed Escrow Agreement Exhibits C-1 and C-2 to this Agreement, respectively.

EXHIBIT H

IN WITNESS WHEREOF, the parties hereto have duly caused this Agreement to be executed as of the date first above written.

P&C Claims, Inc., a Delaware Corporation

By: _____

Name: _____

Title: _____

Name of Licensee

By: _____

Name: _____

Title: _____

Name of Escrow Agent

By: _____

Name: _____

Title: _____

ESCROW AGREEMENT EXHIBIT A

LICENSED COMPUTER PROGRAMS

LICENSED COMPUTER PROGRAM	

ESCROW AGREEMENT EXHIBIT B

FORM OF SOURCE CODE RELEASE REQUEST
(INSERT DATE)

The undersigned, as an officer of _____ ("Licensee"), hereby certifies that:

1. Licensee holds a license to certain Licensed Computer Programs of P&C Claims, Inc. ("P&C Claims") pursuant to the terms of a License Agreement dates as of _____, 20__ (the "License Agreement") between Licensee and P& C Claims.
2. Certain Source Code for the Licensed Computer Programs was deposited by P&C Claims with _____, as escrow agent (the "Escrow Agent") pursuant to an Escrow Agreement dated _____, 20__ ("Escrow Agreement") among P&C Claims, Licensee, and Escrow Agent. Capitalized terms used herein without definition shall have the meanings set forth in the Escrow Agreement.
3. The Release Conditions for the release of the Source Code under the Escrow Agreement have been met in that:
 - 3.1 **[Describe applicable Release Condition(s)]**
 - 3.2 **[In the case of a Release Condition described in Subparagraph 4.1(iii) of the Escrow Agreement, describe the Source Code to be released]**
4. **Retention of Copyright.** Licensee agrees that it will treat the Source Code in strictest confidence and will only use a single copy of the Source Code for the purpose of maintaining the Licensed Computer Programs for use in accordance with the License Agreement. Except as expressly permitted by this Source Code Release Request, the Escrow Agreement or the License Agreement, Licensee will not directly or indirectly (i) sell, transfer, reproduce, publish, use, disseminate or otherwise disclose any portion of the Source Code or (ii) duplicate, manufacture, reproduce or arrange for or contract with any third party to duplicate, manufacture, reproduce any portion of the Source Code. Licensee shall not allow access to the Source Code under any circumstances to anyone other than Licensee's personnel or third party service providers whose access is strictly necessary for the purposes of maintaining the Licensed Computer Programs and who have executed written agreement to abide by the terms of this Paragraph.
5. **Need for Protections.** Licensee acknowledges that (a) the Licensed Computer Programs and the Source Code are the exclusive property of P&C Claims and

EXHIBIT H

the Source Code are protected by intellectual property rights; (b) the Licensed Computer Programs and the Source Code are a commercially valuable, proprietary product of P&C Claims; (3) P&C Claims has invested substantial time and economic resources in the design and development of the Licensed Computer Programs and the Source Code, and (d) the Licensed Computer Programs and the Source Code constitute valuable trade secrets of P&C Claims. Breach by Licensee of any agreement contained in this Source Code Release Request can be expected to result in substantial harm to P&C Claims. Although Licensee will be responsible for any claims, damages, liabilities, losses, government procedures, costs, and expenses, including reasonable attorneys' fees and costs of suits arising out of Licensee's breach of Paragraph 4 above, money damages would not be a sufficient remedy for any breach of those provisions. P&C Claims shall be entitled to specific performance and injunctive relief as remedies for any such breach, without the necessity of posting any bond.

By: _____

Date: _____

Print Name: _____

Print Title: _____

ESCROW AGREEMENT EXHIBIT C-1

CERTIFICATE AS TO AUTHORIZED SIGNATURES

Account Name: _____

Account Number: _____

The specimen signature shown below are the specimen signatures of the individuals who have been designated as Authorized Representative of Company and are authorized to initiate and approve transactions of all types for the above-mentioned account on behalf of the Company.

Name/Title	Specimen Signature
_____ Name	_____ Signature
_____ Title	
_____ Name	_____ Signature
_____ Title	
_____ Name	_____ Signature
_____ Title	
_____ Name	_____ Signature
_____ Title	

ESCROW AGREEMENT EXHIBIT C-2

CERTIFICATE AS TO AUTHORIZED SIGNATURES

Account Name: _____

Account Number: _____

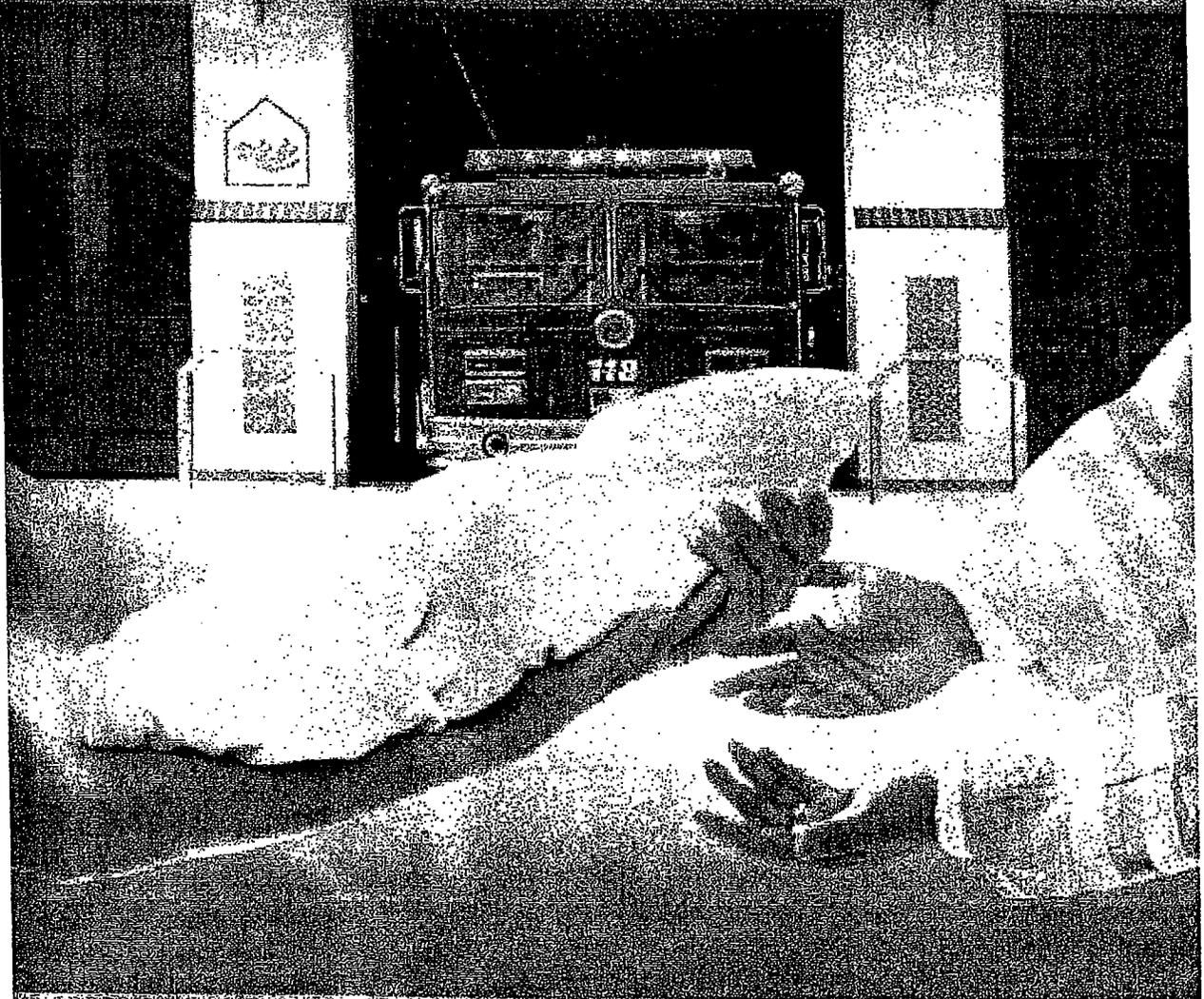
The specimen signature shown below are the specimen signatures of the individuals who have been designated as Authorized Representative of Licensee and are authorized to initiate and approve transactions of all types for the above-mentioned account on behalf of the Licensee.

Name/Title	Specimen Signature
Name	Signature
Title	
Name	Signature
Title	
Name	Signature
Title	
Name	Signature
Title	

EXHIBIT I

SAFELY SURRENDERED BABY LAW

Safely Surrendered



NO PAIN. NO HARM. NO FEAR.

Call Now Toll Free 1-877-4MYSAFE or 1-877-222-9725

www.1my911.org



Ley de Entrega de Bebés *Sin Peligro*



Los recién nacidos pueden ser entregados en forma segura al personal de cualquier hospital o cuartel de bomberos del Condado de Los Angeles.

Sin pena. Sin culpa. Sin nombres.

En el Condado de Los Angeles: 1-877-BABY SAFE • 1-877-222-9723

www.babysafeLA.org



Ley de Entrega de Bebés Sin Peligro

¿Qué es la Ley de Entrega de Bebés sin Peligro?

La Ley de Entrega de Bebés sin Peligro de California permite a una madre o padre entregar un recién nacido a un hospital o cuartel de bomberos dentro de los tres días (72 horas) del nacimiento. Siempre que el bebé no tenga signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre/madre cambia de opinión posteriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazalete y el padre/madre o el adulto que lo entregue recibirá un brazalete igual.

Cada recién nacido se merece la oportunidad de tener una vida saludable. Si alguien que usted conoce está pensando en abandonar a un recién nacido, infórmele que tiene otras opciones. Hasta tres días (72 horas) después del nacimiento, se puede entregar un recién nacido al personal de cualquier hospital o cuartel de bomberos del condado de Los Angeles.

¿Cómo funciona?

El padre/madre con dificultades que no pueda o no quiera cuidar de su recién nacido puede entregarlo en forma legal, confidencial y segura dentro de los tres días (72 horas) del nacimiento. El bebé debe ser entregado a un empleado de cualquier hospital o cuartel de bomberos del Condado de Los Angeles. Siempre que el bebé no presente signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre/madre cambia de opinión posteriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazalete y el padre/madre o el adulto que lo entregue recibirá un brazalete igual.

¿Qué pasa si el padre/madre desea recuperar a su bebé?

Los padres que cambien de opinión pueden comenzar el proceso de reclamar a su recién nacido dentro de los 14 días. Estos padres deberán llamar al Departamento de Servicios para Niños y Familias (Department of Children and Family Services) del Condado de Los Angeles al 1-800-540-4000.

¿Sólo los padres podrán llevar al recién nacido?

No. Si bien en la mayoría de los casos son los padres los que llevan al bebé, la ley permite que otras personas lo hagan si tienen custodia legal.

¿Los padres o el adulto que entrega al bebé deben llamar antes de llevar al bebé?

No. El padre/madre o adulto puede llevar al bebé en cualquier momento, las 24 horas del día, los 7 días de la semana, siempre y cuando entreguen a su bebé a un empleado del hospital o cuartel de bomberos.

¿Es necesario que el padre/madre o adulto diga algo a las personas que reciben al bebé?

No. Sin embargo, el personal del hospital o cuartel de bomberos le pedirá a la persona que entregue al bebé que llene un cuestionario con la finalidad de recabar antecedentes médicos importantes, que resultan de gran utilidad para cuidar bien del bebé. El cuestionario incluye un sobre con el sello postal pagado para enviarlo en otro momento.

¿Qué pasará con el bebé?

El bebé será examinado y le brindarán atención médica. Cuando le den el alta del hospital, los trabajadores sociales inmediatamente ubicarán al bebé en un hogar seguro donde estará bien atendido, y se comenzará el proceso de adopción.

¿Qué pasará con el padre/madre o adulto que entregue al bebé?

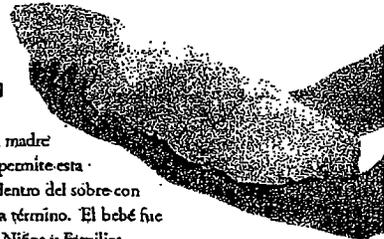
Una vez que los padres o adulto hayan entregado al bebé al personal del hospital o cuartel de bomberos, pueden irse en cualquier momento.

¿Por qué se está haciendo esto en California?

La finalidad de la Ley de Entrega de Bebés sin Peligro es proteger a los bebés para que no sean abandonados, lastimados o muertos por sus padres. Usted probablemente haya escuchado historias trágicas sobre bebés abandonados en basureros o en baños públicos. Los padres de esos bebés probablemente hayan estado pasando por dificultades emocionales graves. Las madres pueden haber ocultado su embarazo, por temor a lo que pasaría si sus familias se enteraran. Abandonaron a sus bebés porque tenían miedo y no tenían nadie a quien pedir ayuda. El abandono de un recién nacido es ilegal y pone al bebé en una situación de peligro extremo. Muy a menudo el abandono provoca la muerte del bebé. La Ley de Entrega de Bebés sin Peligro impide que vuelva a suceder esta tragedia en California.

Historia de un bebé

A la mañana temprana del día 9 de abril de 2005, se entregó un recién nacido saludable a las enfermeras del Harbor-UCLA Medical Center. La mujer que llevó el recién nacido al hospital se dio a conocer como la tía del bebé, y dijo que la madre le había pedido que llevara al bebé al hospital en su nombre. Le entregaron a la tía un brazalete con un número que coincidía con la pulsera del bebé; esto servía como identificación en caso de que la madre cambiara de opinión con respecto a la entrega del bebé y decidiera recuperarlo dentro del periodo de 14 días que permite esta ley. También le dieron a la tía un cuestionario médico, y ella dijo que la madre lo llenaría y lo enviaría de vuelta dentro del sobre con franqueo pagado que le habían dado. El personal médico examinó al bebé y se determinó que estaba saludable y a término. El bebé fue ubicado con una buena familia que ya había sido aprobada para adoptarlo por el Departamento de Servicios para Niños y Familias.



**AGREEMENT
CONTRACTOR'S OBLIGATIONS AS A
"BUSINESS ASSOCIATE" UNDER THE HEALTH INSURANCE
PORTABILITY AND ACCOUNTABILITY ACT OF 1996
AND THE HEALTH CARE INFORMATION TECHNOLOGY
FOR ECONOMIC AND CLINICAL HEALTH ACT
(BUSINESS ASSOCIATE AGREEMENT)**

Under this Agreement, Contractor ("Business Associate") provides services ("Services") to County ("Covered Entity") and Business Associate receives, has access to or creates Protected Health Information in order to provide those Services.

Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information ("Privacy Regulations") and the Health Insurance Reform: Security Standards ("the Security Regulations") at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (together, the "Privacy and Security Regulations"). The Privacy and Security Regulations require Covered Entity to enter into a contract with Business Associate ("Business Associate Agreement") in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place.

Further, pursuant to the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005, *title XIII and title IV of Division B*, ("HITECH Act"), effective February 17, 2010, certain provisions of the HIPAA Privacy and Security Regulations apply to Business Associates in the same manner as they apply to Covered Entity and such provisions must be incorporated into the Business Associate Agreement.

This Business Associate Agreement and the following provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Business Associate in compliance with HIPAA's Privacy and Security Regulations and the HITECH Act, as they now exist or may hereafter be amended.

Therefore, the parties agree as follows:

DEFINITIONS

1.1 "Breach" has the same meaning as the term "breach" in 45 C.F.R. § 164.402.

- 1.2 "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 employees.
- 1.3 "Electronic Health Record" has the same meaning as the term "electronic health record" in the HITECH Act, 42 U.S.C. section 17921. 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.
- 1.4 "Electronic Media" has the same meaning as the term "electronic media" in 45 C.F.R. § 160.103. Electronic Media means (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), 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, because the information being exchanged did not exist in electronic form before the transmission. The term "Electronic Media" draws no distinction between internal and external data, at rest (that is, in storage) as well as during transmission.
- 1.5 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103. Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.
- 1.6 "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).
- 1.7 "Minimum Necessary" refers to the minimum necessary standard in 45 C.F.R. § 162.502 (b) as in effect or as amended.
- 1.8 "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164, also referred to as the Privacy Regulations.

- 1.9 "Protected Health Information" has the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. 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 received by Business Associate from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Health Information.
- 1.10 "Required By Law" means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing benefits.
- 1.11 "Security Incident" means the attempted or successful unauthorized access, Use, Disclosure, modification, or destruction of information in, or interference with system operations of, an Information System which contains Electronic Protected Health Information. However, Security Incident does not include attempts to access an Information System when those attempts are not reasonably considered by Business Associate to constitute an actual threat to the Information System.
- 1.12 "Security Rule" means the Security Standards for the Protection of Electronic Health Information also referred to as the Security Regulations at 45 Code of Federal Regulations (C.F.R.) Part 160 and 164.
- 1.13 "Services" has the same meaning as in the body of this Agreement.
- 1.14 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" in 45 C.F.R. § 164.402.
- 1.15 "Use" or "Uses" mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations.

- 1.16 Terms used, but not otherwise defined in this Business Associate Agreement shall have the same meaning as those terms in the HIPAA Regulations and HITECH Act.

OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate:

(a) shall Use and Disclose Protected Health Information only as necessary to perform the Services, and as provided in Sections 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 4.3 and 5.2 of this Agreement;

(b) shall Disclose Protected Health Information to Covered Entity upon request;

(c) may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:

(i) Use Protected Health Information; and

(ii) Disclose Protected Health Information if the Disclosure is Required by Law.

Business Associate shall not Use or Disclose Protected Health Information for any other purpose or in any manner that would constitute a violation of the Privacy Regulations or the HITECH Act if so Used or Disclosed by Covered Entity.

2.2 Prohibited Uses and Disclosures of Protected Health Information. Business Associate:

(a) shall not Use or Disclose Protected Health Information for fundraising or marketing purposes.

(b) shall not disclose Protected Health Information to a health plan for payment or health care relates.

(c) shall not directly or indirectly receive payment in exchange for Protected Health Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act. This prohibition shall not affect payment by Covered Entity to Business Associate. Covered Entity shall not provide such written consent except upon express approval of the departmental privacy officer and only to the extent permitted by law, including HIPAA and the HITECH Act.

2.3 Adequate Safeguards for Protected Health Information. Business Associate:

- (a) shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Business Associate Agreement. Business Associate agrees to limit the Use and Disclosure of Protected Health Information to the Minimum Necessary in accordance with the Privacy Regulation's minimum necessary standard as in effect or as amended.
- (b) as to Electronic Protected Health Information, shall implement and maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information; effective February 17, 2010, said safeguards shall be in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312, and shall comply with the Security Rule's policies and procedure and documentation requirements.

2.4 Reporting Non-Permitted Use or Disclosure and Security Incidents and Breaches of Unsecured Protected Health Information. Business Associate

- (a) shall report to Covered Entity each Use or Disclosure of Protected Health Information that is made by Business Associate, its employees, representatives, Agents, subcontractors, or other parties under Business Associate's control with access to Protected Health Information but which is not specifically permitted by this Business Associate Agreement or otherwise required by law.
- (b) shall report to Covered Entity each Security Incident of which Business Associate becomes aware.
- (c) shall notify Covered Entity of each Breach by Business Associate, its employees, representatives, agents 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 the Business Associate as determined in accordance with the federal common law of agency.

2.4.1 Immediate Telephonic Report. Except as provided in Section 2.4.3, notification shall be made immediately upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security

Incident or Breach of Unsecured Protected Health Information by telephone call to (562) 940-3335.

- 2.4.2 **Written Report.** Except as provided in Section 2.4.3, the initial telephonic notification shall be followed by written notification made without unreasonable delay and in no event later than three (3) business days from the date of discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident, or Breach by the Business Associate to the Chief Privacy Officer at:

Chief Privacy Officer
Kenneth Hahn Hall of Administration
500 West Temple Street
Suite 525
Los Angeles, California 90012
HIPAA@auditor.lacounty.gov
(213) 974-2166

- (a) The notification required by section 2.4 shall include, to the extent possible, the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, Used, or Disclosed; and
- (b) The notification required by section 2.4 shall include, to the extent possible, all information required to provide notification to the Individual under 45 C.F.R. 164.404(c), including:
 - (i) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - (ii) 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);
 - (iii) Any other details necessary to conduct an assessment of whether there is a risk of harm to the Individual;

- (iv) Any steps Business Associate believes that the Individual could take to protect him or herself from potential harm resulting from the breach;
- (v) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to the Individual, and to protect against any further Breaches; and
- (vi) The name and contact information for the person most knowledge regarding the facts and circumstances of the Breach.

If Business Associate is not able to provide the information specified in section 2.3.2 (a) or (b) at the time of the notification required by section 2.4.2, Business Associate shall provide such information promptly thereafter as such information becomes available.

- 2.4.3 Request for Delay by Law Enforcement. Business Associate may delay the notification required by section 2.4 if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security. If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay notification, notice, or posting for the time period specified by the official; if the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay notification, notice, or posting temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in paragraph (a) of this section is submitted during that time.
- 2.5 Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement.
- 2.6 Breach Notification. Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information, provide Breach notification for each and every Breach of Unsecured Protected Health Information by Business Associate, its employees, representatives, agents or subcontractors, in a manner that permits Covered Entity to comply with its obligations under Subpart D, Notification in the Case of Breach of Unsecured PHI, of the Privacy and Security Regulations, including:

- (a) Notifying 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 such Breach;
- (b) The notification required by paragraph (a) of this Section 2.6 shall include, to the extent possible:
 - (i) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - (ii) 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);
 - (iii) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
 - (iv) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches; and
 - (v) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
 - (vi) The notification required by paragraph (a) of this section shall be written in plain language.

Covered Entity, in its sole discretion, may elect to provide the notification required by this Section 2.6, and Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, including costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information.

- 2.7 Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations. Business Associate shall immediately 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.

- 2.8 Access to Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and copy that Protected Health Information. Business Associate shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from Covered Entity. Business Associate shall provide copies of that Protected Health Information within five (5) business days after receipt of request from Covered Entity. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act.
- 2.9 Amendment of Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make any amendments to Protected Health Information that are requested by Covered Entity. Business Associate shall make such amendment within ten (10) business days after receipt of request from Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.526.
- 2.10 Accounting of Disclosures. Upon Covered Entity's request, Business Associate shall provide to Covered Entity an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or subcontractors, 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 and/or the HITECH Act which requires an Accounting of Disclosures of Protected Health Information maintained in an Electronic Health Record for treatment, payment, and health care operations.

[Optional, to be used when all Uses and Disclosures permitted in order to perform the Services will be for the Covered Entity's payment or health care operations activities: However, Business Associate is not required to provide an Accounting of Disclosures that are necessary to perform the Services because such Disclosures are for either payment or health care operations purposes, or both.]

Any accounting provided by Business Associate under this Section 2.10 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. For each Disclosure that could require an accounting under this Section 2.10, Business Associate shall

document the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure. Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of request from Covered Entity, information collected in accordance with this Section 2.10 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. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act.

- 2.11 Indemnification. Business Associate shall indemnify, defend, and hold harmless Covered Entity, including its elected and appointed officers, employees, and agents, from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, penalties and fines (including regulatory penalties and/or fines), and expenses (including attorney and expert witness fees), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement; Business Associate's obligations under this provision extend to compliance and/or enforcement actions and/or activities, whether formal or informal, of Secretary of the federal Department of Health and Human Services and/or Office for Civil Rights.

3.0 OBLIGATION OF COVERED ENTITY

- 3.1 Obligation of Covered Entity. Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the use 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.

4.0 TERM AND TERMINATION

- 4.1 Term. The term of this Business Associate Agreement shall be the same as the term of this Agreement. Business Associate's obligations under Sections 2.1 (as modified by Section 4.2), 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 4.3 and 5.2 shall survive the termination or expiration of this Agreement.
- 4.2 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in this Agreement, upon either party's knowledge of a material breach by the other party, the party with knowledge of the other party's breach shall:

- (a) Provide an opportunity for the breaching party to cure the breach or end the violation and terminate this Agreement if the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party;
- (b) Immediately terminate this Agreement if a party has breached a material term of this Agreement and cure is not possible; or
- (c) If neither termination nor cure is feasible, report the violation to the Secretary of the federal Department of Health and Human Services.

4.3 Disposition of Protected Health Information Upon Termination or Expiration.

- (a) Except as provided in paragraph (b) of this section, upon termination for any reason or expiration of this Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
- (b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make infeasible. If return or destruction is infeasible, Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

5.0 MISCELLANEOUS

- 5.1 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.
- 5.2 Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate, or create Protected Health Information for Business Associate, on behalf of Covered Entity, to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Business Associate Agreement.



County of Los Angeles
CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District
MARK RIDLEY-THOMAS
Second District
ZEV YAROSLAVSKY
Third District
DON KNABE
Fourth District
MICHAEL D. ANTONOVICH
Fifth District

DRAFT

February 21, 2012

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**COUNTYWIDE CLASSIFICATION ACTIONS:
INFORMATION TECHNOLOGY OCCUPATIONAL STUDY (PHASE II) AND
OTHER CLASSIFICATION ACTIONS
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

This letter and accompanying ordinance will update the tables of classes of positions and departmental staffing provisions by implementing the findings of the Countywide Information Technology (IT) Occupational Study and by reclassifying positions in various County departments.

IT IS RECOMMENDED THAT YOUR BOARD:

Approve the accompanying ordinance, amending Title 6, Salaries, of the County Code to reclassify 25 positions in the Department of Health Services (DHS) as part of the ongoing implementation of the Countywide IT Occupational Study, and to reclassify 19 positions to implement results of other classification studies in the departments of Children and Family Services, Internal Services, Mental Health, and Public Health.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Your Board of Supervisors (Board) has requested submission of classification letters on a periodic basis throughout the year to facilitate consideration of classification and compensation recommendations in a timely manner. Approval of these recommendations will provide the ordinance authority for County departments to implement the classification recommendations in this letter.

These recommendations will ensure the proper classification of positions based upon the duties and responsibilities assigned to these jobs (Attachments A and B). This is a primary goal of the County's classification and compensation system. Positions reclassified upward, downward, and laterally are consistent with the class concepts of the proposed classifications.

We are recommending these actions based upon generally accepted principles of classification and compensation. Furthermore, these actions are important in addressing departmental operational needs and in maintaining consistency in personnel practices throughout the County. The proper classification and compensation of positions facilitates good business operations and can reduce the number of costly personnel-related problems.

Countywide Information Technology Occupational Study – Phase II

Phase II of the Countywide IT Occupational Study covers the classification and allocation of supervisory and management IT positions. Previously, your Board has approved the creation of nine IT management and supervisory classifications along with four "principal" level IT classifications that reflect current-day IT practices of public and private sector organizations. As Phase II is implemented, lower level IT related positions are reviewed and reclassified where appropriate.

We are continuing with a phased approach as we implement Phase II findings in the various facilities and agencies within DHS. In restructuring these IT functions, we are establishing appropriate organization structures and making individual position allocations to facilitate the integration of IT work throughout Health Services. These actions also assist with the recruitment and retention of technical skilled staff and reduce reliance upon contract agency personnel. Specifically, we reviewed a total of 77 IT positions at Harbor/UCLA Medical Center, of which 25 are being recommended for reclassification in this letter (Attachment A).

Reclassifications

Based upon individual position studies conducted at the request of four (4) departments, we are recommending that 19 positions be reclassified (Attachment B). The assigned duties, responsibilities, and/or utilization of these positions have changed since the original allocations were made. The positions would be more appropriately classified at the recommended levels.

Implementation of Strategic Plan Goals

Your Board’s approval of the accompanying ordinance will further the County Strategic Plan Goal 1 - Operational Effectiveness. Specifically, it will address the Service Excellence and Organizational Effectiveness Strategy to improve the quality of the workforce, to achieve departmental operational efficiencies, and to maintain consistency in personnel practices throughout the County. These recommendations are in line with the Human Resources Transformation Strategic Initiative Project, which includes the deletion of specialized classes in an effort to streamline the classification system.

FISCAL IMPACT/FINANCING

The projected budgeted annual cost savings for the 44 positions that will be reclassified are estimated to be \$84,862 (all funds). The Net County cost is estimated to be \$23,356. The breakdown of these actions is as follows:

Action	Total Budgeted Cost	Net County Cost
Children and Family Services Reclass	\$18,399	\$16,978
Health Services – Harbor/UCLA Medical Center Information Technology Reclass	\$320,437	\$0
Internal Services Department Reclass	\$6,257	\$250
Mental Health Reclass	(\$442,210)	\$0
Public Health Reclass	\$12,255	\$6,128
Total	(\$84,862)	\$23,356

Cost increases associated with the upward and downward reclassification actions will be absorbed within the Board’s adopted budget for each affected department. No additional funding is required.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The County Charter authorizes the establishment and maintenance of “a classification plan and the classification of all positions.” This responsibility is further delineated in Civil Service Rule 5.

Appropriate notifications have been made with the impacted employee organizations regarding the recommended classification actions. The accompanying ordinance implementing amendments to Title 6, Salaries, of the County Code has been approved as to form by County Counsel.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Your approval of these classification recommendations will enhance the operational effectiveness of the department through the proper compensation of positions.

Respectfully submitted,

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:BC:EFS
SJM:SC:KP:ra

Attachments

c: Executive Office, Board of Supervisors
County Counsel
Auditor-Controller
Human Resources
Health Services

COUNTYWIDE INFORMATION TECHNOLOGY OCCUPATIONAL STUDY –
PHASE II

RECOMMENDED RECLASSIFICATIONS FOR IT POSITIONS

DHS - HARBOR/UCLA MEDICAL CENTER

No of Pos.	Present Classification	No of Pos.	Classification Findings
1	Application Developer I Item No. 2520A N2M 90C Represented	1	Information Technology Technical Support Supervisor Item No. 2548A NM 95F Non-Represented
1	Data Control Clerk Item No. 2657A NMV 61L Represented	1	Intermediate Clerk Item No. 1138A NMV 61L Represented
1	Departmental Information Systems Manager Item No. 2601A N23 S10 Non-Represented	1	Information Technology Manager II Item No. 2571A N23 S12 Non-Represented
1	Information Systems Analyst Aid Item No. 2588A NM 82L Represented	1	Information Technology Technical Support Analyst II Item No. 2546A NM 87F Represented
6	Information Systems Analyst II Item No. 2591A NM 92B Represented	1	Departmental Information Security Officer I Item No. 2611A NM 103E Non-Represented
		1	Network Systems Administrator II Item No. 2559A NM 93F Represented
		1	Operating Systems Analyst Item No. 2550A NM 95B Represented
		1	Principal Information Systems Analyst Item No. 2594A NM 103H Non-Represented

DHS - HARBOR/UCLA MEDICAL CENTER (Continued)

No of Pos.	Present Classification	No of Pos.	Classification Findings
	Information Systems Analyst II (Cont'd) Item No. 2591A	1 1	Senior Information Systems Analyst Item No. 2593A NM 99E Non-Represented Senior Operating Systems Analyst Item No. 2551A NM 100C Represented
2	Information Systems Supervisor I Item No. 2595A NM 99E Non-Represented	1 1	Information Technology Supervisor Item No. 2598A NM 104H Non-Represented Principal Operating Systems Analyst Item No. 2552A NM 104H Non-Represented
3	Information Systems Supervisor II Item No. 2596A NM 104B Non-Represented	2 1	Information Technology Manager I Item No. 2565A N23 S11 Non-Represented Information Technology Supervisor Item No. 2598A NM 104H Non-Represented
2	Information Technology Aide Item No. 2584A NM 71F Represented	1 1	Information Technology Technical Support Analyst II Item No. 2546A NM 87F Represented Senior Information Systems Analyst Item No. 2593A NM 99E Non-Represented
3	Network Systems Administrator II Item No. 2559A NM 93F Represented	2 1	Operating Systems Analyst Item No. 2550A NM 95B Represented Senior Network Systems Administrator Item No. 2560A NM 97F Represented

DHS - HARBOR/UCLA MEDICAL CENTER (Continued)

No of Pos.	Present Classification	No of Pos.	Classification Findings
3	Senior Information Systems Analyst Item No. 2593A NM 99E Non-Represented	1 1 1	Information Technology Supervisor Item No. 2598A NM 104H Non-Represented Principal Information Systems Analyst Item No. 2594A NM 103H Non-Represented Senior Network Systems Administrator Item No. 2560A NM 97F Represented
1	Senior Information Technology Technical Support Analyst Item No. 2547A NM 91F Represented	1	Information Technology Technical Support Supervisor Item No. 2548A NM 95F Non-Represented
1	Senior Network Systems Administrator Item No. 2560A NM 97F Represented	1	Principal Network Systems Administrator Item No. 2561A NM 103H Non-Represented
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RECOMMENDATIONS FOR POSITION RECLASSIFICATION

CHILDREN AND FAMILY SERVICES

Number of Positions	Present Classification and Salary	Classification Findings and Salary
1	Supervising Children’s Social Worker Item No. 9074A N3R 90L Represented	Children Services Administrator I Item No. 9086A 98F Non-Represented
1	Supervising Children’s Social Worker Item No. 9074A N3R 90L Represented	Children Services Administrator II Item No. 9087A 101A Non-Represented

The first subject position reports to an Assistant Regional Administrator, Children and Family Services, and is responsible for developing and making recommendations on policies and procedures for children’s protective services programs, serving as the liaison to various law enforcement agencies for the Department’s Co-Location Project, interpreting Federal, State and County laws and regulations, and Children and Family Services (DCFS) policies and procedures for staff and law enforcement personnel, and preparing reports to the DCFS Director and/or the Board of Supervisors in response to investigations of high-profile cases.

The assigned duties are consistent with the classification standards for Children Services Administrator I. By definition, this class typically assists in the development or administration of a children's services program for adoption, foster care, protective services and specialized programs or provides support services for these and other programs in the department. Therefore, we recommend upward reclassification to Children Services Administrator I.

CHILDREN AND FAMILY SERVICES (Continued)

The second subject position serves as the coordinating supervisor for the Multi-Agency Response Team (MART) and reports to an Assistant Regional Administrator, Children and Family Services. This position will supervise 19 positions, which include three (3) Supervising Children's Social Workers (subordinate supervisors) and 16 Children's Social Workers. In addition, the position makes recommendations on policies and procedures for the program, participates with law enforcement agencies in the pre-operation planning phase for all joint operations, interprets Federal, State and County laws and regulations, as well as Children and Family Services policies and procedures for staff and law enforcement personnel, and prepares reports to the Department Director and/or the Board of Supervisors in response to investigations of high-profile cases.

The assigned duties are consistent with the classification standards for Children Services Administrator II. By definition, this class typically directs child protective services and administrative support services, developing specialized programs. Therefore, we recommend upward reclassification to Children Services Administrator II.

INTERNAL SERVICES DEPARTMENT

Number of Positions	Present Classification and Salary	Classification Findings and Salary
1	Procurement Assistant II Item No. 2346A NM 76C Represented	Procurement Assistant III Item No. 2347A NM 80D Represented

The subject Procurement Assistant II position currently reports to the budgeted Procurement Assistant III and is assigned to the Procurement and Property Management Section, which is located offsite at the Department's Administrative Offices/Eastern location. In addition to procuring a wide variety of technical items in support of the Department's Information Technology Services (ITS) and Facility Operations Services (FOS), the position provides onsite supervision to procurement staff in the Downey office, which includes planning, assigning, scheduling, and reviewing the work of a staff, including Procurement Assistant II positions, and clerical staff.

The assigned duties are consistent with the classification standards for Procurement Assistant III. By definition, this class typically supervises subordinate procurement supervisors at the level of Procurement Assistant II and/or supervises a larger staff of positions procuring a variety of technical items which requires substantial participation in locating sources of supply, making comparative evaluations of quality and features, and in developing tentative specifications. In addition, the department states that the offsite supervision of staff in the Downey office has resulted in reduced efficiency, as well as a number of employee relations issues. Once the position is reclassified, it will report to the Section Manager, Contracts, ISD. Therefore, we recommend upward reclassification to Procurement Assistant III.

MENTAL HEALTH

No of Pos.	Present Classification and Salary	No of Pos.	Classification Findings and Salary
8	Community Mental Health Psychologist Item No. 8711A N2M 99C Represented	3	Clinical Psychologist II Item No. 8697A N2M 99F Represented
		2	Mental Health Clinical Supervisor Item No. 9038A N3MW 92C Represented
		1	Mental Health Counselor, RN Item No. 5278F N21 RN06 Represented
		2	Psychiatric Social Worker II Item No. 9035A N3MW 88B Represented
1	Division Chief, LPS Conservatee Case Management, Mental Health Item No. 1491A NM 101C Non-Represented	1	Health Program Analyst III Item No. 4731A NM 101C Non-Represented
4	Mental Health Clinical District Chief, M.D. Item No.5492A N42 E11 Non-Represented	4	Mental Health Clinical District Chief Item No. 4722A NM 112L Non-Represented
1	Stenographer Item No. 2170A N4M 63E Represented	1	Intermediate Typist-Clerk Item No. 2214A NMV 62K Represented
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MENTAL HEALTH (Continued)

Reclassification of Community Mental Health Psychologist to Various Levels

The subject eight (8) Community Mental Health Psychologist positions are located in various clinical services programs of the Department of Mental Health. The Community Mental Health Psychologist classification was identified for deletion as part of a Countywide study of classes that had not been utilized for an extended period due to obsolescence of lack of viable need. To that end, each of the subject positions are being proposed for reclassification to a clinically-licensed class that is more commensurate with the actual duties performed by incumbents. We are therefore recommending lateral reclassification of three (3) positions to Clinical Psychologist II; upward reclassification one (1) position to Mental Health Counselor, R.N.; and downward reclassification of the remaining four (4) positions: Two (2) to Mental Health Clinical Supervisor and two (2) to Psychiatric Social Worker II.

Reclassification of Division Chief, LPS Conservatee Case Management, Mental Health to Health Program Analyst III

The subject position reports to the Medical Director, M.D., Mental Health; and develops and coordinates fiscal and budget controls for the Managed Care Division of the Office of the Medical Director, including contract administration and monitoring for contracted Medi-Cal Fee-for-Service 27 inpatient and 300 providers. This position oversees a staff of five (5) employees performing authorization review and approval activities; conducts hospital contract orientation; oversees the preparation of provider bulletins and alerts; analyzes legislation affecting Medi-Cal inpatient and network providers; and plans, develops, and implements policies and procedures in connection with utilization review and authorization.

The assigned duties are consistent with Health Program Analyst III, which supervises staff in the performance of program planning, implementation, and evaluation activities. We are therefore recommending lateral reclassification of this position to Health Program Analyst III.

MENTAL HEALTH (Continued)

Reclassification of Mental Health Clinical District Chief, M.D. to Mental Health Clinical District Chief

The subject four (4) Mental Health Clinical District Chief, M.D. positions oversee the following respective clinical services programs of the Department of Mental Health: Adult System of Care Service Area 8 Administration; Children's System of Care Countywide Case Management; Juvenile Justice Mental Health Administration; and Critical Care Harbor-UCLA Outpatient Programs. The Mental Health Clinical District Chief, M.D. classification was identified for deletion as part of a Countywide study of classes that had not been utilized for an extended period due to obsolescence of lack of viable need. The assigned duties of each of the subject positions are more commensurate with Mental Health Clinical District Chief, a clinically-licensed, non-M.D. classification that supervises multiple mental health services programs through subordinate program managers. We are therefore recommending downward reclassification of the subject positions to Mental Health Clinical District Chief.

Reclassification of Stenographer to Intermediate Typist-Clerk

The subject position reports to a Patient Financial Services Worker; and provides clerical support to clinical and financial staff at the Long Beach Mental Health Center. The duties of this position include client data entry; scheduling appointments for clients; receiving and responding to inquires from clients and clinical staff; electronic and hard-copy file maintenance; assisting with client screenings and billing for services; and production of the monthly accounts receivable report.

The assigned duties are consistent with Intermediate Typist-Clerk, which performs skilled typing work in addition to specialized clerical duties requiring working knowledge of the subject matter involved. We are therefore recommending lateral reclassification of the subject position to Intermediate Typist-Clerk.

PUBLIC HEALTH – PUBLIC HEALTH PROGRAMS

Number of Positions	Present Classification and Salary	Classification Findings and Salary
2	Senior Secretary III Item No. 2102A NM 79K Non-Represented	Management Secretary III Item No. 2109A NM 83K Non-Represented

The first Senior Secretary III position reports to a Chief Physician II who serves as the head of Chronic Disease and Injury Prevention (CDIP). The other Senior Secretary III position reports to a Departmental Chief Information Officer who serves as the head of Public Health’s Information Systems (PHIS).

Secretarial allocations throughout the County are based primarily upon the level of manager to which the secretary is assigned as well as the department size. Positions allocable to the Management Secretary III classification typically provide secretarial assistance to a deputy director in a large and complex County department. The subject positions report to managers that function at a level similar to that of a deputy director. The manager over CDIP has direct oversight of a budget of over \$40 million and has delegated authority to act on behalf of the department and the County in response to State and Federal directives while the manager over PHIS is responsible for directing department-wide information technology activities. Therefore, we recommend upward reclassification of the subject positions to Management Secretary III.

- 5.3 Relationship to Services Agreement Provisions. In the event that a provision of this Business Associate Agreement is contrary to another provision of this Agreement, 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 this Agreement.
- 5.4 Regulatory References. A reference in this Business Associate Agreement to a section in the Privacy or Security Regulations means the section as in effect or as amended.
- 5.5 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Regulations.
- 5.6 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 to comply with the requirements of the Privacy and Security Regulations and other privacy laws governing Protected Health Information

ANALYSIS

This ordinance amends Title 6 - Salaries, of the Los Angeles County Code by adding, deleting, and/or changing certain classifications and numbers of ordinance positions in the departments of Children and Family Services, Health Services, Internal Services, Mental Health, and Public Health.

JOHN KRATTLI
Acting County Counsel

By: _____
HALVOR S. MELOM
Principal Deputy County Counsel
Labor & Employment Services Division

HSM:cs

ORDINANCE NO. _____

An ordinance amending Title 6 - Salaries, of the Los Angeles County Code relating to the addition, deletion, and/or changing of certain classifications and number of ordinance positions in various departments to implement the findings of classification studies.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 6.53.010 (Department of Children and Family Services) is hereby amended to change the number of ordinance positions for the following classes:

ITEM NO.	NO. OF ORDINANCE POSITIONS		TITLE
9086A	238	<u>239</u>	CHILDREN SERVICES ADMINISTRATOR I
9087A	69	<u>70</u>	CHILDREN SERVICES ADMINISTRATOR II
9074A	645	<u>643</u>	SUPVG CHILDREN'S SOCIAL WORKER

SECTION 2. Section 6.77.010 (Department of Public Health – Public health services) is hereby amended to change the number of ordinance positions for the following classes:

ITEM NO.	NO. OF ORDINANCE POSITIONS		TITLE
2109A	2	<u>4</u>	MANAGEMENT SECRETARY III
2102A	5	<u>3</u>	SENIOR SECRETARY III

SECTION 3. Section 6.78.055 (Department of Health Services – MetroCare network) is hereby amended to delete the following classes and number of ordinance positions:

ITEM NO.	NO. OF ORDINANCE POSITIONS	TITLE
2520A	4	APPLICATION DEVELOPER I
2657A	4	DATA CONTROL CLERK
2601A	4	DEPTL INFORMATION SYSTEMS MANAGER
2596A	3	INFORMATION SYSTEMS SUPERVISOR II

SECTION 4. Section 6.78.055 (Department of Health Services – MetroCare network) is hereby amended to add the following classes and number of ordinance positions:

ITEM NO.	NO. OF ORDINANCE POSITIONS	TITLE
<u>2611A</u>	<u>1</u>	<u>DEPTL INFO SECURITY OFFICER I</u>
<u>2548A</u>	<u>2</u>	<u>IT TECHNICAL SUPPORT SUPERVISOR</u>
<u>2550A</u>	<u>3</u>	<u>OPERATING SYSTEMS ANALYST</u>
<u>2561A</u>	<u>1</u>	<u>PRINCIPAL NETWORK SYSTEMS ADMIN</u>
<u>2551A</u>	<u>1</u>	<u>SENIOR OPERATING SYSTEMS ANALYST</u>

SECTION 5. Section 6.78.055 (Department of Health Services – MetroCare network) is hereby amended to change the number of ordinance positions for the following classes:

ITEM NO.	NO. OF ORDINANCE POSITIONS	TITLE
2591A	18 <u>12</u>	INFORMATION SYSTEMS ANALYST II
2588A	5 <u>4</u>	INFORMATION SYSTEMS ANALYST AID
2595A	3 <u>1</u>	INFORMATION SYSTEMS SUPERVISOR I
2584A	3 <u>1</u>	INFORMATION TECHNOLOGY AIDE
2565A	4 <u>3</u>	INFORMATION TECHNOLOGY MANAGER I
2571A	4 <u>2</u>	INFORMATION TECHNOLOGY MANAGER II
2598A	2 <u>5</u>	INFORMATION TECHNOLOGY SUPERVISOR
2546A	8 <u>10</u>	IT TECHNICAL SUPPORT ANALYST II
1138A	223 <u>224</u>	INTERMEDIATE CLERK
2559A	40 <u>8</u>	NETWORK SYSTEMS ADMINISTRATOR II
2594A	4 <u>3</u>	PRINCIPAL INFO SYSTEMS ANALYST
2552A	4 <u>2</u>	PRINCIPAL OPERATING SYSTEMS ANALYST
2593A	20 <u>19</u>	SENIOR INFORMATION SYSTEMS ANALYST
2547A	3 <u>2</u>	SENIOR IT TECHNICAL SUPPORT ANALYST
2560A	5 <u>6</u>	SR NETWORK SYSTEMS ADMINISTRATOR

SECTION 6. Section 6.81.010 (Internal Services Department) is hereby amended to change the number of ordinance positions for the following classes:

ITEM NO.	NO. OF ORDINANCE POSITIONS	TITLE
2346A	9 <u>8</u>	PROCUREMENT ASSISTANT II
2347A	4 <u>2</u>	PROCUREMENT ASSISTANT III

SECTION 7. Section 6.86.010 (Department of Mental Health) is hereby amended to delete the following classes and number of ordinance positions:

ITEM NO.	NO. OF ORDINANCE POSITIONS	TITLE
1491A	1	DIV CHIEF, LPS CONSERVATEE CASE MGMT
5492A	-4	MENTAL HEALTH CLINICAL DIST CHF, MD
2170A	4	STENOGRAPHER

SECTION 8. Section 6.86.010 (Department of Mental Health) is hereby amended to change the number of ordinance positions for the following classes:

ITEM NO.	NO. OF ORDINANCE POSITIONS	TITLE
8697A	287 <u>290</u>	CLINICAL PSYCHOLOGIST II
8711A	9 <u>1</u>	COMMUNITY MENTAL HLTH PSYCHOLOGIST
4731A	24 <u>22</u>	HEALTH PROGRAM ANALYST III
2214A	393 <u>394</u>	INTERMEDIATE TYPIST-CLERK

4722A	30	<u>34</u>	MENTAL HEALTH CLINICAL DIST CHIEF
9038A	135	<u>137</u>	MENTAL HEALTH CLINICAL SUPERVISOR
5278F	4	<u>2</u>	MENTAL HEALTH COUNSELOR,RN
9035A	845	<u>817</u>	PSYCHIATRIC SOCIAL WORKER II

SECTION 9. Pursuant to Government Code Section 25123(f), this ordinance shall take effect immediately upon final passage.

[RECLASSFEB12CSCEO]

Board IT Agenda Items

Department	Board IT Agenda Item	Description	Amount	CEO Cluster	New Term	Planned Hearing Date
LASD	Sole Source Amendment with Norm Fogel for the Computer-Aided Dispatch System	Sole source amendment to assist in the upgrade of the Sheriff's Computer-Aided Dispatch System to a current hardware and software platform and to transition its maintenance and support to Northrup Grumman. Funding Source: FY 2011-12 Operating Budget Existing Agreement: 71792	Est \$480,000	Public Safety	TBD	
DPW	Supplemental Agreement for Dams Automated Data Acquisition System (DADAS)	Acquisition of professional services, software, and hardware to expand and refresh an existing dam monitoring system, including a new telemetry infrastructure and commercial off-the-shelf software. Funding Source: Unknown at present Existing Contract: N/A	\$2,000,000	Community & Municipal Services	2 years	
LASD	Sole Source Agreement with DataWorks Plus	Sole Source Agreement for hardware and software updates and customization. Funding Source: Automated Fingerprint Identification System (AFIS) Fund Existing Agreement: N/A	\$500,000	Public Safety	1 base year with 2 one-year options	
CIO	Memorandum of Understanding (MOU) with City of Los Angeles	MOU with City of Los Angeles for the use of the County's Alert LA County Mass Notification System. Funding Source: N/A Existing Agreement: 9C76945	N/A	Operations	1 year with 3 one-year options	
CDC	Amendment No. 1 to Agreement 2098 with Yardi Systems, Inc.	Extends the Agreement term and increases the contract amount to enable implementation of additional system modules. Funding Source: Federal Funds Existing Agreement: 2098	\$220,000	Community & Municipal Services	4 additional 1 year terms (2014 - 2017)	
RR/CC	Amendment No. 2 to Agreement No. 7100601 with Election Systems & Software, Inc.	Acceptance of ES&S' Corporation status change from a "C" Corporation to a Limited Liability Corporation. Funding Source: N/A Existing Agreement: 7100601	\$0	Operations	N/A	

Department	Board IT Agenda Item	Description	Amount	CEO Cluster	New Term	Planned Hearing Date
CEO	Contract with P&C Claims for Workers' Compensation Claim Administration System Maintenance and Hosting Services	Contract #76027 with existing vendor to continue system maintenance and hosting services. The extension of this Agreement provides CEO Risk Management time to plan and architect a new repository containing all risk management information. Funding Source: Workers' Compensation Trust Fund Existing Contract: 76027	\$2,885,232	Operations	3 years with 3 one-year options	
CEO	Agreement with Fairchild Consulting for Business Continuity Consulting Services	Agreement for consulting services to support the on-going development of the County's Business Continuity Program. Funding Source: CEO/OEM FY 2011-12 Operating Budget (\$200,000) and CEO Technology Funds (\$100,000). Existing Agreement: N/A	\$300,000	Operations	2 year term with 1 option year	
CIO	ITF Request for Enterprise IT Security and Privacy Awareness Training Software	Request authorization to use the ITF monies to acquire and implement the enterprise IT security and privacy awareness training content for use in the County's Learning Net. Funding Source: ITF Existing Agreement: N/A	\$240,000	Operations	N/A	
LASD	Sole Source Agreement with Northrup Grumman for the Computer-Aided Dispatch System	Sole Source Agreement to perform an upgrade of the Sheriff's Computer-Aided Dispatch System to a more current hardware and software platform and to transition system maintenance and support from Norm Fogel. Funding Source: FY 2011-12 Operating Budget Existing Agreement: N/A	Est. \$875,000	Public Safety	TBD	
CDC	Replacement of 181 PCs and Laptops	Replace PCs and laptops 5-7 years old due to increasing hardware failures and inability to support Windows 7. Funding Source: Department Budget Existing Agreement: N/A	\$176,000	Community & Municipal Services	4 years maintenance included	

Department	Board IT Agenda Item	Description	Amount	CEO Cluster	New Term	Planned Hearing Date
ISD	ITF Request to Replace Document Management Software for the Shared Portal Infrastructure	Request authorization to utilize ITF funding to replace Stellent with EMC Documentum, the County's enterprise content management standard, for the County Portal's document repository. This will result in an annual \$300,000 savings for operating the Shared Portal Infrastructure. Funding Source: ITF Existing Agreement: N/A	Est. \$400,000	Operations	N/A	
ISD	Accept Grant Funds and Approve Acquisition of Telecommunications Equipment	Accept grant funding of \$3,778,027 from the Urban Areas Security Initiative (UASI) 2008 to be used to purchase telecommunications equipment, exceeding \$250,000, to be a gateway into the existing Countywide Interoperable Radio System (CWIRS). Hearing date will be scheduled after this project is approved by LA City. Funding Source: UASI 2008 Grant Existing Agreement: N/A	\$3,778,027	Operations	N/A	
CIO	Amendment No. 3 to Agreement 76043 With Oracle America, Inc.	Amendment 3 with Oracle will extend the term of the MSA agreement for technology services from February 20, 2012 to February 20, 2014. The maximum contract sum to remain at \$3 million. Target hearing date is February 14, 2012. Funding Source: Departmental Budgets Existing Contract: 76043	\$3 million	Operations	2 years to February 2014	
RR/CC	Memorandum of Understanding (MOU) with Orange County Clerk-Recorder	MOU with the Orange County Clerk-Recorder's office to provide maintenance and support services for the SECURE eRecording system. Funding Source: N/A Existing Agreement: N/A	\$0	Operations	5 months, with automatic 5 year renewal	
CIO	Board Policy - Information Management Program	Request for Board approval of a policy to establish an Information Management Program in support of countywide data sharing and information exchange initiatives. Target hearing date is February 21, 2012. Funding Source: Existing NCC Existing Agreement: N/A	N/A	Operations		

Department	Board IT Agenda Item	Description	Amount	CEO Cluster	New Term	Planned Hearing Date
CIO	Request for delegated authority to administer Board IT standards	Request for delegated authority to administer Board adopted IT standards for Buisness Intelligence (Cognos) and Internet Portal (WebSphere). Target hearing date is February 21, 2012. Funding Source: Existing NCC Existing Agreement: N/A	N/A	Operations		
DHS	Authorization to Execute Microsoft MSA Work Order for Active Directory and Email Migration	Authorize CIO to execute Work Order to support DHS Active Directory and MS Exchange Email migration. We are expecting a Board letter from the Department in the next few weeks. Funding Source: DHS Status Quo Budget Existing Agreement: Microsoft MSA	\$2 million	Health & Mental Health Services		
CEO	Amendment No. 2 to Agreement with SunGard Availability Services	This Amendment will: 1) recognize SunGard Availability Services Acquisition of Strohl Systems Group Inc. Business Continuity Software, 2) continue software maintenance and technical support for the County's business continuity software, and 3) allocate additional money for optional consulting services and products. Funding Source: Funded by CEO/OEM FY 2011-12 Operating Budget (\$258,402) and CEO Information Technology Funds (\$200,000). Existing Agreement: 74640	\$458,402	Operations	3 year term with 3 option years	



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"To enrich lives through effective and caring service"

February 21, 2012

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**AWARD OF PAY PHONE SERVICES CONTRACT
(ALL SUPERVISORIAL DISTRICTS – 3 VOTES)**

SUBJECT

Approval of a contract to provide pay phone services at various County facilities.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and instruct the Chairman to sign the attached contract (Attachment 1) with Western Communication Systems, Inc., to provide pay phones services effective April 12, 2012, for a period of five (5) years, with two (2) one-year renewal options and six (6) month to month extensions at an estimated first-year cost of \$205,088.
2. Authorize the Director of Internal Services Department (ISD), or his designee, to exercise the renewal options and month-to-month extensions in accordance with the attached contract.
3. Authorize the Director of ISD, or his designee, to execute contract amendments to add or delete pay phones, make necessary changes to the scope of services; or convert the pay structure for individual pay phones contingent on usage.

4. Delegate authority to the Director of ISD, or his designee, to execute applicable contract amendments should the original contracting entity merge, be acquired, or otherwise have a change of entity.
5. Delegate authority to the Director of ISD, or his designee, to extend the existing Pay Phone Services contract with Nami Communications, Inc. (Contract No. 75877) for a 90-day period, from March 12, 2012 to June 11, 2012, to continue providing uninterrupted pay phone services and facilitate the transition of services to the County facilities.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

ISD currently manages a contract with a private firm to provide pay phone services at a wide range of County facilities including County parks, hospitals and Superior Courts. The services include pay phone maintenance as well as coin collection activities. The current contract expires March 11, 2012. The recommendations will ensure a continuation of uninterrupted services to the public and County employees, and extend the existing contract to transition services to the new contractor.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommended contract supports County Strategic Plan Goal Number 1 (Operational Effectiveness) and Goal Number 5 (Public Safety) by providing effective communication services to County constituents at various County facilities.

FISCAL IMPACT/FINANCING

There are two types of pay phone services under the contract:

- **Concession Pay Phones:** These phones are located at County buildings that the public pays to use. These phones typically have a higher volume of usage (over \$100 monthly), which generates income for the County.
- **Convenience Pay Phones:** These phones are used occasionally and offered as a convenience to the public at County facilities. The contractor charges the County a set monthly fee to keep the phones operational. There is no revenue sharing for these phones.

Total expenditures under the recommended contract will vary depending on the number of concession and convenience pay phones as follows:

- **Concession Pay Phones:** The County will receive 40% of the revenue for those concession pay phones producing revenue of \$100 or more each month. Based on historical revenue data, annual revenue is estimated to be \$67,600. There is no revenue sharing percentage for phones generating less than \$100 per month. Revenue associated with this category of pay phones has been included in the Fiscal Year 2012-13 Telephone Utilities Budget.
- **Convenience Pay Phones:** Convenience pay phones represent those phones that generate less than \$100 per month. The County will pay a fee of \$38 per month for each convenience pay phone to cover line usage, phone repairs, and cleaning. The total fee, based on the current inventory, is projected to be \$272,688 annually. The monthly fees are billed to the departments with pay phones located at their facilities.

The projected first-year contract cost is approximately \$205,088 (i.e., \$272,688 in expenses for maintenance of the convenience pay phones less \$67,600 in revenue from the concession pay phones).

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The terms and conditions of the recommended contract have been approved as to form by County Counsel. The contract contains the Board's required contract provisions, including those pertaining to consideration of qualified County employees targeted for layoffs, as well as qualified GAIN/GROW participants for employment openings, compliance with the Jury Service Ordinance, Safely Surrendered Baby Law and the Child Support program. This contract does not allow for a cost of living adjustment (COLA).

This is not a Proposition A contract and, therefore, not subject to the Living Wage Program (County Code Chapter 2.201). It has been determined that the services under this contract do not impact Board Policy No. 5.030, "Low Cost Labor Resource Program", due to the specialized nature of the work.

CONTRACTING PROCESS

On August 15, 2011, ISD released an Invitation for Bids (IFB) for Pay Phone Services and posted the solicitation and contracting opportunity announcement on the County's

"Doing Business with Us" web site (Attachment 2). Notice of the IFB was sent via electronic mail to 180 vendors registered with the County (Attachment 3). In addition, an electronic mail notification regarding the release of the IFB was sent to twelve (12) vendors (Attachment 4).

On September 12, 2011, six (6) bids were received, and all bids were reviewed for compliance with the minimum requirement criteria as set forth in the IFB. All bids were determined to be in compliance with the minimum requirements. The bid from Western Communication Systems, Inc., met the minimum requirements and was determined to be the lowest and most responsive bid. Two (2) of the five (5) non-selected bidders received debriefings.

One (1) bidder submitted a protest and requested a County Review. As a result, a County Review Panel was convened, and a meeting was held on January 17, 2012. The County Review Panel did not have any recommended changes.

A summary of Community Business Enterprise Program information for the recommended contractor is attached (Attachment 5). On final analysis, selections were made without regard to gender, race, creed, color or national origin.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of this contract will allow the County to continue to provide pay phone services at various County facilities throughout the County of Los Angeles.

Respectfully submitted,

TOM TINDALL
Director

TT:YY

Attachments (5)

c: Chief Executive Officer
County Counsel