



# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

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IN REPLY PLEASE  
REFER TO FILE: **T-6**

September 30, 2004

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:

**TRAFFIC CONTROL SYSTEM  
AWARD OF PROCUREMENT AND SERVICE AGREEMENT  
ALL SUPERVISORIAL DISTRICTS  
3 VOTES**

**CIO RECOMMENDATION: APPROVE ( ) APPROVE WITH MODIFICATION ( )  
DISAPPROVE ( )**

**IT IS RECOMMENDED THAT YOUR BOARD:**

Approve and instruct the Chairman to execute the enclosed agreement with Kimley-Horn and Associates, Inc. (Kimley-Horn). The agreement is for the procurement and installation of the Kimley-Horn Integrated Transportation System (KITS), a traffic control system, in the unincorporated County areas, including system support and maintenance, all for a not-to-exceed fee of \$2,072,250. This amount includes an optional task of \$200,000 to provide for an interface with the County-owned traffic signal controller firmware (LACO-IV).

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

We are recommending that your Board execute an agreement with Kimley-Horn. The agreement will be for the procurement and installation of KITS, a traffic signal control system developed by Kimley-Horn, in the unincorporated County areas. The agreement also outlines the details for a 4-year maintenance agreement to be

commenced upon expiration of the 1-year warranty period. In addition, this agreement also includes a countywide license for other cities within the County that may wish to use our system or purchase a separate version of KITS for their traffic signals. This countywide license allows any city to use the County's system with no additional fees. Any city within the County of Los Angeles that acquires KITS will only pay for labor charges associated with installation and integration, and maintenance and support and not license fees.

The agreement also includes an optional task for interfacing with KITS. LACO-IV was developed by former County employees currently working in the private sector. Kimley-Horn is currently exploring options to obtain the services of the LACO-IV developers, or any other consultants, to interface KITS with LACO-IV, subject to approval by the County. If successful, these consultants will be hired as subconsultants under this agreement. The agreement includes a not-to-exceed budget of \$200,000 for this optional task that will only be performed upon authorization from the Interim Director of Public Works. In the event Kimley-Horn is unsuccessful in hiring subconsultants to perform the KITS/LACO-IV interface, we may select other firmware to interface with KITS. Should the cost of the ultimate solution for interfacing exceed the currently budgeted amount, we shall seek further approval from your Board.

Since 1995, we have administered Intelligent Transportation System (ITS) projects within various cities and in the unincorporated County areas. The primary system component of these projects is a traffic signal control system that allows traffic signals to be monitored and controlled from a remote location, such as a traffic management center, city hall, or maintenance yard.

This traffic signal control system will provide for continuous monitoring of traffic conditions and traffic signal operations and build upon the benefits achieved by the traffic signal synchronization projects currently underway. The system will provide once-per-second monitoring of traffic signals. Traffic signal monitoring will provide our engineering staff with immediate notification of signal malfunctions, thereby enabling faster and more efficient maintenance responses. The system also enables traffic signal timing to be controlled and coordinated from remote workstations to adjust to actual traffic conditions. The traffic signal control system will also provide two-way communications and control functions between the traffic signal controllers and remote workstations.

Upon installation, this traffic signal control system will interface with the County's Information Exchange Network (IEN), thereby allowing for the exchange of arterial traffic data and information across jurisdictional boundaries. This information sharing will enable the implementation of arterial traffic management strategies and coordinated traffic signal operations. It will also enable agencies to work together to reduce response time during incidents and emergencies. The capability to monitor and control the operation of traffic signals between jurisdictions will benefit the motorists and transit users that rely on the arterial highways.

### **Implementation of Strategic Plan Goals**

This recommendation is consistent with the County Strategic Plan Goal of Children and Families' Well-Being, as implementation will result in reduced traffic congestion and delay, improved mobility, and reduced vehicle emissions, thus improving the overall quality of life for the residents of the County of Los Angeles.

The Subregional Traffic Forum Intelligent Transportation System is included in Public Works' Fiscal Year 2004-05 Business Automation Plan.

### **FISCAL IMPACT/FINANCING**

There will be no impact to the County's General Fund. This project will be funded by Los Angeles County MTA 1995 Call for Projects, Proposition C Discretionary Grant Funds for the East San Gabriel Valley Traffic Signal Forum, and County matching funds included in the Fiscal Year 2004-05 Proposition C Local Return Fund Budget. The MTA will provide 86.3 percent of the funds while the County will fund the remaining 13.7 percent.

The recommended agreement for this project is for a not-to-exceed fee in the amount of \$2,072,250. This includes \$280,000 for 4 years of maintenance, \$30,000 for database support, and \$227,250 for unforeseen additional work that may arise during progress of the work. Any additional work within this allowance will only be performed with prior written authorization from the Interim Director of Public Works or his designee. The total project cost also includes up to \$80,000 in computer hardware to be reimbursed by MTA.

## **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The agreement has been approved as to form by County Counsel. The standard Board-directed clauses that provide for contract termination, renegotiation, and hiring qualified displaced County employees have been included.

The agreement also requires Kimley-Horn to indemnify the County for liability arising out of the provision of its products and services, including intellectual property (such as patent or copyright infringement), and to provide appropriate types and limits of commercial insurance coverage.

As required by the Board, language has been incorporated into the agreement stating that the consultant, and each of its subconsultants, shall notify its employees that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. The agreement also contains provisions requiring the consultant to comply with the Safely Surrendered Baby Law.

As requested by the Board on August 12, 1997, and as a threshold requirement for consideration of a contract award, Kimley-Horn states that it is willing to consider Greater Avenues for Independence/General Relief Opportunity for Work Program participants for future employment.

Kimley-Horn also represents that it is in full compliance with Los Angeles County Code Chapter 2.200 (Child Support Compliance Program) and Chapter 2.203 (Contractor Employee Jury Service Program).

## **ENVIRONMENTAL DOCUMENTATION**

A finding of environmental impact is not required for this agreement.

## **CONTRACTING PROCESS**

On June 3, 2004, we submitted an advance notification (copy enclosed) to advise your Board of our intent to conduct contract negotiations with Kimley-Horn for the procurement, installation, and system support of the traffic control system. The notice explained the purpose of the system and the procurement process.

The Honorable Board of Supervisors  
September 30, 2004  
Page 5

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

There will be no impact on current County services or projects during the performance of the recommended services.

**CONCLUSION**

Enclosed are two originals of the agreement. It is requested that one original, together with two approved copies of this letter, be returned to us for our transmittal to Kimley-Horn. The County original of the agreement is for your file.

Respectfully submitted,

Reviewed by:

DONALD L. WOLFE  
Interim Director of Public Works

JON W. FULLINWIDER  
Chief Information Officer

IY:ja

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Enc.

cc: Chief Administrative Office  
Chief Information Office  
County Counsel  
Department of Public Social Services (GAIN Program)

**CHIEF INFORMATION OFFICE  
CONTRACT ANALYSIS  
FACT SHEET**

The Board of Supervisors charged the Chief Information Office (CIO) with responsibility for reviewing all Information Technology (I/T) related contracts submitted for Board-approval. We are providing this FACT SHEET as an aid to departments to allow the CIO to perform a comprehensive analysis in the shortest time possible. If these elements are omitted, the CIO may require additional time to perform their analysis and prepare a recommendation to the Board. This could result in a request for additional information or clarification to your department and extend or delay the anticipated Board filing date.

**TIME FRAME**

The CIO is committed to providing timely responses to departments; our goal is to provide feedback within ten (10) business days. Therefore, departments **MUST** submit documents to our office at least **four weeks** prior to the intended Board filing date.

**DEPARTMENT CHECKLIST/FACTS**

The elements below are grouped by headings or sub-headings, several of which have been taken from the formal board letter. If topic is discussed in the Board letter, please indicate that fact. Ensure that you have thoroughly explained the following elements. There are additional points that will be included in the CIO Analysis. Space is provided for you to provide information on these points at the time you submit your Board letter and agreement for our review. Providing the information in this Fact Sheet will allow us to complete our analysis in the shortest time possible.

❖ **PURPOSE OF RECOMMENDED ACTION**

- ☒ New/Revised Contract Term: Base Term 6 Years (November 2004 to October 2010)
- ☒ Number of Options: 2 two-year terms

- |   |                                |
|---|--------------------------------|
| ☒ <u>Contract TYPE</u>                    | <u>Contract Components</u>     |
| <u>X</u> New Contract                     | <u>X</u> Software              |
| <u>  </u> Sole Source                     | <u>X</u> Professional Services |
| <u>  </u> Contract Amendment              | <u>  </u> Hardware             |
| <u>  </u> Contract Extension of Term Only | <u>  </u> Telecommunications   |

❖ **Implementation of Strategic Plan Goals**

- ☒ Is this proposal in alignment with the County of Los Angeles Strategic Plan? YES X NO
- ☒ Is GSO (Goal, Strategy, Objective) referenced in the Board letter? YES X NO
- ☒ Is this project included in the Department's BAP? YES X NO
- ☒ Is the proposal's technology solution in compliance with the preferred County of Los Angeles IT Standards?  
YES X NO
- ☒ Is the project's technology solution in compliance with the County of Los Angeles IT Directions Document?  
YES X NO

❖ **JUSTIFICATION**

☞ Identify the benefits of the requested project/agreement and the metrics that will be used to validate the project or agreement's success.

*The implementation of this project will result in reduced traffic congestion and delay, improved mobility, and reduced vehicle emissions thus improving the overall quality of life for the residents of Los Angeles County. The successful implementation of the project components associated with this agreement will be evident by the installation of a traffic signal control system to provide for continuous monitoring of traffic conditions and traffic signal operations. The result will be faster and more efficient maintenance responses and better operational coordination of traffic signals between jurisdictions.*

❖ **FISCAL IMPACT/FINANCING**

☞ Is this project subvented? YES X NO \_\_\_ If yes, what percentage is offset? 86.3

☞ Budget Information:

☞ Year-To-Date Expenditures: \$ 0

☞ Requested Contract Amount: \$ 2,072,250

☞ Describe the impact if project/agreement is not approved.

*The full implementation of the project components as originally envisioned will not occur, and our Department will be forced to abandon our \$150 million dollar Intelligent Transportation Program which we have undertaken on behalf of numerous agencies throughout the County .*

❖ **FACTS AND PROVISIONAL/LEGAL REQUIREMENT**

☞ Is this project legislatively mandated? YES \_\_\_ NO X

❖ **ALTERNATIVES CONSIDERED**

☞ Describe the alternatives considered and the reasons for selecting the recommended course of action.

*The Department conducted an extensive evaluation of commercial off-the-shelf traffic control systems for a system that will meet the majority of our required functionality and therefore minimize the need for extensive custom modifications and staff training. Out of the sixteen competitors, two were invited for hands-on testing. The selected consultant was the second ranked. Negotiation with the top ranked consultant was terminated due to inability to reach a mutual agreement on the cost.*

❖ **PROJECT RISKS**

☞ Describe any identified risks to the department and County in undertaking this project/agreement. Additionally, describe what, if anything, the department intends to do to mitigate the risks.

*Overall, there is very little risk to the Department as a substantial portion of the project is funded by grants so therefore there is no impact on the County's general fund. The MTA holds DPW responsible for any and all cost overruns on the project. Mitigation of these risks will occur by our compliance with the provisions of the Grant funds. DPW will also hold back 10 percent of each invoice until the end of the project. In addition, another risk could be that the consultant fails to complete tasks by the deadline. To mitigate delays, payments will be paid once the deliverable is approved and accepted by DPW.*

❖ **Other facts, if any.**

N/A

**TRAFFIC CONTROL SYSTEM AGREEMENT**  
**FOR**  
**DEPARTMENT OF PUBLIC WORKS**  
**BY AND BETWEEN**  
**COUNTY OF LOS ANGELES**  
**AND**  
**KIMLEY-HORN AND ASSOCIATES, INC.**



DEPARTMENT OF PUBLIC WORKS AGREEMENT

Table of Contents

1. AGREEMENT AND INTERPRETATION. ....1

    1.1 Agreement.....1

    1.2 Interpretation.....1

    1.3 Additional Terms and Conditions.....2

    1.4 Construction.....2

2. DEFINITIONS.....2

3. ADMINISTRATION OF AGREEMENT – COUNTY. ....7

    3.1 County Project Director. ....7

    3.2 County Project Manager. ....7

    3.3 County Personnel.....8

4. ADMINISTRATION OF AGREEMENT – KHA. ....8

    4.1 KHA Project Director. ....8

    4.2 KHA Project Manager. ....9

    4.3 Approval of KHA’s Staff.....10

    4.4 Status Reports by KHA.....10

5. WORK; APPROVAL AND ACCEPTANCE. ....11

    5.1 General.....11

    5.2 Specific Approval and Acceptance.....12

6. CHANGE NOTICES AND AMENDMENTS .....12

    6.1 General.....13

    6.2 Change Order.....14

    6.3 Duration of KHA’s Change Order Price Quotation.....15

    6.4 Change Order Dispute Resolution .....15

    6.5 Change Order Audit.....15

7. TERM .....15

8. PRICES AND FEES.....15

8.1	General.....	15
8.2	Maximum Contract Sum.....	15
8.3	Pool Dollars .....	16
8.4	Adjustments to Hourly Labor Rates .....	16
8.5	Delivery of System Software; Taxes. ....	16
9.	COUNTY’S OBLIGATION FOR FUTURE FISCAL YEARS .....	17
10.	INVOICES AND PAYMENTS.....	17
10.1	Approval of Invoices.....	17
10.2	Submission of Invoices.....	17
10.3	Detail.....	18
10.4	No Partial or Progress Payments.....	19
10.5	Invoice Discrepancy Report.....	19
10.6	County’s Right to Withhold.....	19
10.7	Holdbacks .....	19
10.8	Credits to County. ....	19
11.	DEFICIENCIES.....	21
11.1	Deficiencies.....	21
11.2	Corrective Measures .....	21
11.3	Approval .....	21
12.	REPRESENTATIONS AND WARRANTIES.....	21
13.	MAINTENANCE, SUPPORT AND ADDITIONAL SERVICES. ....	22
13.1	Maintenance Services .....	22
13.2	Correction of Deficiencies .....	22
13.3	Updates .....	22
13.4	System Hardware .....	23
13.5	Additional Services .....	23
14.	OWNERSHIP; LICENSE.....	23
14.1	Ownership.....	23
14.2	License .....	24
14.3	Fully-Paid Software License.....	25

15. SOURCE CODE .....25

    15.1 County-Owned Customizations Source Code .....25

    15.2 Self Escrow .....25

16. THIRD PARTY SOFTWARE.....26

17. MINIMUM SYSTEM REQUIREMENTS; COMPATIBILITY .....27

18. KHA’S OFFICES .....28

19. PRODUCTION USE OF THE SYSTEM.....28

20. NOTICES.....28

21. ARM’S LENGTH NEGOTIATIONS .....29

22. SURVIVAL .....29

## EXHIBITS

- EXHIBIT A – ADDITIONAL TERMS AND CONDITIONS
- EXHIBIT B – STATEMENT OF WORK
- EXHIBIT C – PRICE AND SCHEDULE OF PAYMENTS
- EXHIBIT D – DESCRIPTION OF SOFTWARE
- EXHIBIT E – MAINTENANCE & SUPPORT
- EXHIBIT F – THIRD PARTY SOFTWARE
- EXHIBIT G – PREAPPROVED SUBCONTRACTORS
- EXHIBIT H – SAMPLE SUBCONTRACT
- EXHIBIT I – LETTER OF CREDIT
- EXHIBIT J – KHA’S EMPLOYEE ACKNOWLEDGEMENT,  
CONFIDENTIALITY & ASSIGNMENT OF RIGHTS
- EXHIBIT K – TASK/DELIVERABLE ACCEPTANCE CERTIFICATE

THIS TRAFFIC CONTROL SYSTEM AGREEMENT is entered into on the Effective Date by and between the Los Angeles County Department of Public Works (“County”) and Kimley-Horn and Associates, Inc., a North Carolina Corporation, headquartered at 3001 Weston Parkway, Cary, NC 27513-2301 (“KHA”).

WHEREAS, KHA is a consultant that has developed proprietary software systems, including the communication and control system known as “KITS”;

WHEREAS, County desires to employ KHA to deliver, implement, integrate and customize or modify the KITS software system in order to provide County an advanced traffic management system for the benefit of County’s Department of Public Works (the “Department”); and

WHEREAS, KHA possesses the necessary special skills, knowledge and technical competence and sufficient staffing to provide all components of the traffic management system.

NOW THEREFORE, in consideration of the mutual covenants contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and KHA agree as follows:

## **1. AGREEMENT AND INTERPRETATION.**

- 1.1 Agreement. This base document along with Exhibits A through L and any schedules attached hereto or thereto collectively constitute and throughout and hereinafter are referred to as the “Agreement.” This Agreement shall constitute the complete and exclusive statement of understanding between County and KHA and supersedes any and all prior or contemporaneous agreements, written or oral, and all communications between the parties relating to the subject matter of this Agreement.
- 1.2 Interpretation. 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, subtask, Deliverable, service, or other Work, or otherwise, such conflict or inconsistency shall be resolved by giving precedence first to this base document, and then to the Exhibits according to the following priority:
  - 1.2.1. Exhibit A – Additional Terms and Conditions
  - 1.2.2. Exhibit B – Statement of Work
  - 1.2.3. Exhibit C – Price and Schedule of Payments
  - 1.2.4. Exhibit D – Description of Software
  - 1.2.5. Exhibit E – Maintenance & Support
  - 1.2.6. Exhibit F - Third Party Software
  - 1.2.7. Exhibit G - Preapproved Subcontractors

1.2.8. Exhibit H - Sample Subcontract

1.2.9. Exhibit I – Letter of Credit

1.2.10. Exhibit J - KHA’s Employee Acknowledgement, Confidentiality & Assignment of Rights

1.2.11. Exhibit K - Task/Deliverable Acceptance Certificate

1.3 Additional Terms and Conditions. Without limiting the generality of Paragraph 1.1 (Agreement), attached hereto as Exhibit A (Additional Terms and Conditions), and incorporated by reference herein, are additional terms and conditions to this Agreement. KHA acknowledges and agrees that it shall be bound by the additional terms and conditions enumerated in such Exhibit as if such terms and conditions were enumerated in the body of this base document.

1.4 Construction. The words “herein”, “hereof”, and “hereunder” and words of similar import used in this Agreement refer to this Agreement, including all annexes, attachments, Exhibits, and Schedules as the context may require. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural. Whenever examples are used in this Agreement with the words “including”, “for example”, “e.g.”, “such as”, “etc.”, or any derivation of such words, such examples are intended to be illustrative and not limiting.

**2. DEFINITIONS.** The following terms and phrases in quotation marks and with initial letters capitalized shall have the following specific meaning when used in this Agreement.

2.1. “Additional Services” has the meaning set forth in Paragraph 13.5 (Additional Services).

2.2. “Agreement” has the meaning set forth in Paragraph 1.1 (Agreement).

2.3. “Baseline Software” means KHA’s KITS program, as described in Exhibit D (Description of Software). Such Baseline Software is Licensed by County pursuant to this Agreement, and is and becomes a component of the System Software.

2.4. “Board” means the Los Angeles County Board of Supervisors.

2.5. “Change Order” has the meaning set forth in Paragraph 6.2 (Change Order).

2.6. “Compatible” or “Compatibility” has the meaning set forth in Paragraph 17 (Minimum System Requirements; Compatibility).

2.7. “Contractor Hearing Board” has the meaning set forth in the then current Chapter 2.202.020 of Los Angeles County Code.

2.8. “Confidential Information” has the meaning set forth in Paragraph 3.2.1 of Exhibit A (Additional Terms and Conditions).

- 2.9. “County” has the meaning set forth in the Recitals.
- 2.10. “County Indemnitees” has the meaning set forth in Paragraph 13.1 (Indemnification) of Exhibit A (Additional Terms and Conditions).
- 2.11. “County-Owned Customizations” means: (i) the LACO-IV Optional Work and (ii) the customizations developed by or on behalf of KHA for the benefit of County, which customizations the parties agree do not constitute an improvement, modification or addition to existing KHA proprietary software (other than developer tools or programs), and which is provided pursuant to a Change Order. Any customization that will become a County-Owned Customization pursuant to clause (ii) above shall be specifically identified as a County-Owned Customization in the applicable Change Order. Subject to Paragraph 14 (Ownership), such County-Owned Customizations are and become a component of the System Software. County and KHA acknowledge that as of the Effective Date, the only County-Owned Customization contemplated by this Agreement is the LACO-IV Optional Work.
- 2.12. “County-Owned Customizations Source Code” means all the Source Code for the County-Owned Customizations.
- 2.13. “County Project Director” has the meaning set forth in Paragraph 3.1 (County Project Director).
- 2.14. “County Project Manager” has the meaning set forth in Paragraph 3.2 (County Project Manager).
- 2.15. “CSCP certification” has the meaning set forth in Paragraph 31.3 of Exhibit A (Additional Terms and Conditions).
- 2.16. “CSSD” has the meaning set forth in Paragraph 30 (KHA Certification of Principal Owner Information) of Exhibit A (Additional Terms and Conditions).
- 2.17. “Custom Programming Modifications” has the meaning set forth in Paragraph 13.5.1.
- 2.18. “Customizations” means KHA-Owned Customizations and County-Owned Customizations.
- 2.19. “Deficiency” has the meaning set forth in Paragraph 11.1 (Deficiencies).
- 2.20. “Deliverable” means an item identified as a numbered Deliverable in the SOW, as well as the Specifications for any System Hardware or other materials to be purchased directly by County and not by KHA.
- 2.21. “Department” has the meaning set forth in the Recitals.
- 2.22. “Deputy Director” means a Deputy Director of the Los Angeles County Department of Public Works.

- 2.23. “Director” means the Director of the Los Angeles County Department of Public Works, or his designee.
- 2.24. “Dispute Resolution Procedure” has the meaning set forth in Paragraph 2 (Dispute Resolution Procedure) of Exhibit A (Additional Terms and Conditions).
- 2.25. “Disabling Device” has the meaning set forth in Paragraph 12.7 of Exhibit A (Additional Terms and Conditions).
- 2.26. “Documentation” means any and all written materials, including user manuals, quick-reference guides, FAQs, training materials, testing protocols, methodologies, Specifications, and system designs and system design reviews that support the use and execution of the Integrated System, including the System Software.
- 2.27. “Effective Date” means the date the Agreement is executed by all parties and approved by the Board.
- 2.28. “Final Acceptance” has the meaning set forth in Paragraph 5.2.2 (Final Acceptance).
- 2.29. “Final Acceptance Date” has the meaning set forth in Paragraph 5.2.2 (Final Acceptance).
- 2.30. “Go-Live” has the meaning set forth in Paragraph 5.2.1 (Go-Live).
- 2.31. “Go-Live Date” has the meaning set forth in Paragraph 5.2.1 (Go-Live).
- 2.32. “Holdback Amount” has the meaning set forth in Paragraph 10.7 (Holdbacks).
- 2.33. “Hourly Labor Rate” means a fully burdened hourly rate, which includes a blended and allocated average of direct and indirect costs, overhead, administrative expenses, and any other incidental expenses attributable to each personnel hour worked.
- 2.34. “Infringement Claim” or “Infringement Claims” has the meaning set forth in Paragraph 14.1 of Exhibit A (Additional Terms and Conditions).
- 2.35. “Initial Term” has the meaning set forth in Paragraph 7 (Term).
- 2.36. “Integrated System” means an advanced traffic management system capable of monitoring and controlling traffic signal controllers using County specified communication protocols and all other Work required by this Agreement and the Statement of Work, including the System Software.
- 2.37. “Interfaces” means the software mechanisms which allow the transfer of electronic data or software commands between computer systems, computer programs, or computer program modules which are (a) required to be provided by KHA as Work under the Statement of Work, or (b) requested by County to be provided by KHA as Additional Services pursuant to Paragraph 6.2 (Change Order) and Paragraph 13.5 (Additional



Services), in each case, which Interfaces are and become a component of the System Software.

- 2.38. “Invoice Discrepancy Report” or “IDR” has the meaning set forth in Paragraph 10.5 (Invoice Discrepancy Report).
- 2.39. “Jury Service Program” has the meaning set forth in Paragraph 33.1 (Jury Service Program) of Exhibit A (Additional Terms and Conditions).
- 2.40. “KHA Key Personnel” has the meaning set forth in Paragraph 4.3.2.
- 2.41. “KHA-Owned Customizations” means the customizations or modifications to the Baseline Software, other than County-Owned Customizations, developed by or on behalf of KHA specifically for the Work required, and provided as Deliverables, under the Statement of Work. Such KHA-Owned Customizations are and become a component of the System Software.
- 2.42. “KHA Project Director” has the meaning set forth in Paragraph 4.1 (KHA Project Director).
- 2.43. “KHA Project Manager” has the meaning set forth in Paragraph 4.2 (KHA Project Manager).
- 2.44. “KHA Technical Staff” has the meaning set forth in Paragraph 4.3.2.
- 2.45. “KITS” has the meaning set forth in the recitals of this Agreement.
- 2.46. “LACO-IV Optional Work” means the customizations developed by or on behalf of KHA for the benefit of County under Task 5 (Custom Programming Modifications to LACO-4 Firmware) of Exhibit B (Statement of Work).
- 2.47. “License” has the meaning set forth in Paragraph 14.2 (License).
- 2.48. “Maintenance Fee” means the amount charged by KHA per annum for Maintenance Services provided to the Integrated System, as set forth on the attached Exhibit C (Price and Schedule of Payments).
- 2.49. “Maintenance Services” has the meaning set forth in Paragraph 13 (Maintenance, Support and Additional Services) and the attached Exhibit E (Maintenance & Support).
- 2.50. “Maximum Contract Sum” has the meaning set forth in Paragraph 8 (Prices and Fees).
- 2.51. “Natural Degeneration” has the meaning set forth in Paragraph 15.2 (Self-Escrow).
- 2.52. “Option Term” has the meaning set forth in Paragraph 7 (Term).
- 2.53. “Pool Dollars” has the meaning set forth in Paragraph 8.3 (Pool Dollars).

- 2.54. “Preapproved Subcontractor” has the meaning set forth in Paragraph 1.2 (Preapproved Subcontractors) of Exhibit A (Additional Terms and Conditions).
- 2.55. “Project Status Reports” has the meaning set forth in Paragraph 4.4 (Status Reports by KHA).
- 2.56. “Replacement Product” has the meaning set forth in Paragraph 41 (Continuous Product Support) of Exhibit A (Additional Terms and Conditions).
- 2.57. “Source Code” means computer programming code in human readable form that is not suitable for machine execution without the intervening steps of interpretation or compilation, including the tools and developer kits that created and that enable creation of such code.
- 2.58. “Specifications” means the specifications for the Integrated System as set forth in this Agreement, the SOW, the Documentation and any approved Change Order, including Custom Programming Modifications.
- 2.59. “Statement of Work” or “SOW” means the Statement of Work, attached as Exhibit B (Statement of Work) to this Agreement.
- 2.60. “System Hardware” means any and all hardware that is required for County to enjoy and exercise fully its rights in respect of the Integrated System.
- 2.61. “System Software” means the Baseline Software, and the computer programs, including Third Party Software, conceived, created, or developed by KHA in furtherance of all of KHA’s obligations pursuant to this Agreement, which includes the application programs, Customizations and Interfaces, and including any and all Updates, Custom Programming Modifications, extensions and components provided from time to time.
- 2.62. “System Software Source Code” means all the Source Code for the System Software.
- 2.63. “Task/Deliverable Acceptance Certificate” means the certificate attached hereto as Exhibit K (Task/Deliverable Acceptance Certificate) issued by County upon KHA’s satisfactory completion of the applicable Tasks, subtasks, Deliverables and services in accordance with the requirements, Specifications, and timetables set forth in the Statement of Work.
- 2.64. “Tasks” means one or more major areas of work to be performed under this Agreement and identified as a numbered Task in the SOW.
- 2.65. “Tax” and “Taxes” means governmental fees (including , license, filing and registration fees) and all taxes (including, franchise, excise, stamp, value added, income, gross receipts, gross revenue, import, export, sales, use, transfer and property taxes), withholdings, assessments, levies, imposts, duties, charges, or interest thereon imposed.
- 2.66. “Term” has the meaning set forth in Paragraph 7 (Term).

- 2.67. “Third Party Software” has the meaning set forth in Paragraph 16 (Third Party Software).
- 2.68. “Updates” has the meaning set forth in Paragraph 13 (Maintenance, Support and Additional Services).
- 2.69. “Warranty Period” has the meaning set forth in Paragraph 12.2.
- 2.70. “Work” means any and all Tasks, subtasks, Deliverables, Custom Programming Modifications, Additional Services and other items, materials and services performed, or delivered, by or on behalf of KHA in order to develop and deliver to County an Integrated System, including the work required pursuant to this Agreement, the SOW, and all the Exhibits, Change Orders, and amendments hereto.

**3. ADMINISTRATION OF AGREEMENT – COUNTY.**

3.1 County Project Director.

3.1.1. County Project Director for this Agreement shall be the following person:

Jane White  
County of Los Angeles  
Department of Public Works  
Traffic and Lighting Division  
P.O. Box 1460  
Alhambra, CA 91802-1460

Telephone: (626) 300-2020  
Fax: (626) 300-4736  
E-mail: [jwhite@ladpw.org](mailto:jwhite@ladpw.org)

3.1.2. County will notify KHA in writing of any change in County Project Director.

3.1.3. Except as set forth in Paragraph 6 (Change Notices and Amendments), County Project Director is not authorized to make any changes in any of the terms and conditions of this Agreement and is not authorized to further obligate County in any respect whatsoever.

3.1.4. County Project Director shall have the right at all times to inspect any and all Work provided by or on behalf of KHA.

3.2 County Project Manager.

3.2.1. County Project Manager for this Agreement shall be the following person:

Fernando Villaluna  
County of Los Angeles  
Department of Public Works  
Traffic and Lighting Division  
P.O. Box 1460  
Alhambra, CA 91802-1460

Telephone: (626) 300-2030  
Fax: (626) 300-4736  
E-mail: fvillalun@ladpw.org

- 3.2.2. County shall notify KHA in writing of any change in the name or address of County Project Manager.
  - 3.2.3. County Project Manager shall be a resource for addressing the technical standards and requirements of this Agreement.
  - 3.2.4. County Project Manager shall interface with KHA Project Manager on a regular basis.
  - 3.2.5. County Project Manager is not authorized to make any changes in any of the terms and conditions of this Agreement nor obligate County in any respect whatsoever.
  - 3.2.6. County Project Manager shall advise County Project Director as to KHA's performance in areas relating to technical requirements and standards, County policy, information requirements, and procedural requirements.
  - 3.2.7. County reserves the right to consolidate the duties of County Project Director, which duties are enumerated in Paragraph 3.1 (County Project Director), and the duties of County Project Manager, which duties are enumerated in this Paragraph 3.2, into one County position, and to assign all such duties to one individual who will act as County's liaison in all matters relating to this Agreement. County will notify KHA no later than five (5) days prior to exercising its rights pursuant to this Paragraph 3.2.7.
- 3.3 County Personnel. All County personnel assigned to this Agreement shall be under the exclusive supervision of County. KHA understands and agrees that all such County personnel are assigned only for the convenience of County.

#### **4. ADMINISTRATION OF AGREEMENT – KHA.**

##### **4.1 KHA Project Director.**

- 4.1.1. KHA Project Director shall be the following person:

Pierre Pretorius  
Kimley-Horn and Associates, Inc.  
7878 N. 16<sup>th</sup> Street  
Suite 300  
Phoenix, AZ 85020-4467

Telephone: (602) 906-1166  
Fax: (602) 906-7423  
Email: pierre.pretorius@kimley-horn.com

- 4.1.2. KHA Project Director shall be responsible for KHA's performance of all of the Work and ensuring KHA's compliance with this Agreement.
- 4.1.3. From the Effective Date through the Final Acceptance Date, KHA Project Director shall be available to meet and confer with County Project Director at least monthly, in person or by phone, to review project progress and discuss project coordination; thereafter, KHA Project Director shall be available to meet and confer with County Project Director on such schedule as may be reasonably requested by County Project Director, but not more frequently than monthly.

4.2 KHA Project Manager.

- 4.2.1. The KHA Project Manager shall be the following person who shall be a full-time employee of KHA:

Jason Castillo  
Kimley-Horn and Associates, Inc.  
7878 N. 16<sup>th</sup> Street  
Suite 300  
Phoenix, AZ 85020-4467

Telephone: (602) 906-1108  
Fax: (602) 906-7423  
Email: jason.castillo@kimley-horn.com

- 4.2.2. KHA Project Manager shall be responsible for KHA's day-to-day activities as related to this Agreement and for reporting to County in the manner set forth in Paragraph 4.4 (Status Reports by KHA).
- 4.2.3. From the Effective Date through the Final Acceptance Date, KHA Project Manager shall be available to meet and confer as necessary, but no less frequently than weekly, in person or by phone, with County Project Manager; thereafter, KHA Project Manager shall be available to meet and confer with County Project

Manager on such schedule as may be reasonably requested by County Project Manager, but not more frequently than monthly.

4.3 Approval of KHA's Staff.

- 4.3.1. County approves the proposed KHA Project Director and KHA Project Manager listed in Paragraphs 4.1.1 and 4.2.1. County Project Director has the right to approve or disapprove any proposed replacements for the persons set forth in Paragraphs 4.1.1 and 4.2.1 as KHA Project Director and KHA Project Manager. If KHA desires to replace, or if County, at its discretion, requires removal of, either KHA Project Director or the KHA Project Manager, KHA shall provide County with a resume of each such proposed replacement, and an opportunity to interview such proposed replacement prior to the proposed replacement performing any Work hereunder. County shall not unreasonably delay its approval of a replacement of KHA Project Director or KHA Project Manager.
  - 4.3.2. KHA shall endeavor to assure continuity during the Term of KHA personnel performing key functions under this Agreement, including Robert Barkley and John Kerenyi (collectively, "KHA Technical Staff," and together with KHA Project Director and KHA Project Manager, the "KHA Key Personnel"). Notwithstanding the foregoing, County Project Director may require removal of any KHA Technical Staff.
  - 4.3.3. In the event KHA should desire to remove any KHA Key Personnel from performing Work under this Agreement, KHA shall provide County with notice at least fifteen (15) days in advance, except in circumstances in which such notice is not possible (*e.g.*, a removal for cause or other egregious act), and shall work with County on a mutually agreeable transition plan so as to ensure project continuity, especially during any period prior to the Final Acceptance Date.
  - 4.3.4. KHA shall promptly fill any vacancy in KHA Key Personnel with individuals having qualifications at least equivalent to those of KHA Key Personnel being replaced.
  - 4.3.5. All staff employed by and on behalf of KHA shall be adults who are legally eligible to work under the laws of the United States of America and the state of California. All KHA Key Personnel and all other members of KHA's staff who have direct contact with County (either by telephone, electronic or written correspondence, or in person) shall be fully fluent in both spoken and written English.
- 4.4 Status Reports by KHA. In order to control expenditures and to ensure the reporting of all Tasks, subtasks, Deliverables, services, and other Work provided by KHA, KHA Project Director shall provide County Project Director and County Project Manager with monthly written reports ("Project Status Reports") as described in Task 1.2 (Project Status Reports) of the SOW.

## 5. WORK; APPROVAL AND ACCEPTANCE.

5.1 General. All Tasks, Subtasks, Deliverables, including final Documentation, items, services and other Work provided by KHA, including Additional Services utilizing Pool Dollars, must be prepared and provided solely as specified under this Agreement and must receive the written approval of County's Project Director in order to qualify for payment. In respect of a Documentation Deliverable which is titled "draft" in Exhibit B (Statement of Work), and subject in all instances to any Holdback Amounts, County shall pay KHA fifty percent (50%) of the invoiced cost allocated to such draft Documentation Deliverable upon KHA's submission to County of the draft Documentation Deliverable, and the remaining fifty percent (50%) upon County's written approval of the draft Documentation Deliverable, as evidenced by County Project Director's countersignature to the Task/Deliverable Acceptance Certificate. All other Deliverables, including Deliverables titled "final" in Exhibit B (Statement of Work), submitted to County for review and approval shall be approved or disapproved as set forth herein. Upon completion of particular Tasks, including all applicable subtasks, Deliverables, services, and other Work to be provided by KHA pursuant to this Agreement, including the Statement of Work and any executed Change Order, KHA shall submit a Task/Deliverable Acceptance Certificate in the form attached as Exhibit K (Task/Deliverable Acceptance Certificate) to County Project Director, together with any supporting documentation reasonably requested by County, for County Project Director's written approval. Unless a shorter or longer time period is specified in respect of a particular Task or Deliverable, County's Project Director shall endeavor reasonably to approve or disapprove each Task or Deliverables within thirty (30) days of KHA submitting an applicable Task/Deliverable Acceptance Certificate. KHA acknowledges that notwithstanding anything herein to the contrary it must complete all Work required to complete and deliver to County an Integrated System. All Work shall be completed in a timely manner and in accordance with the requirements and Specifications set forth in the SOW, and must have the written approval of County Project Director, as evidenced by County Project Director's countersignature to the applicable Task/Deliverable Acceptance Certificate. In no event shall County be liable or responsible for payment respecting a particular Task prior to execution of the Task/Deliverable Acceptance Certificate for such Task.

5.1.1. Optional Work. Notwithstanding the provisions of this Paragraph 5 (Work; Approval and Acceptance), Task 5 (Custom Programming Modifications to LACO-4 Firmware) of Exhibit B (Statement of Work) is an optional Task, and KHA shall not commence Work on such Task unless and until County and KHA mutually agree in writing that KHA shall proceed with such Work. KHA acknowledges that production efficiencies and other technological advances that are developed prior to the date County and KHA agree that KHA should proceed with Work under Task 5 (Custom Programming Modifications to LACO-4 Firmware) may enable KHA to provide the Work for less than the amount originally set forth under Exhibit C (Price and Schedule of Payments). If County Project Director believes in good faith that such Work can be performed and

provided for less than the amount set forth for such Task under Exhibit C (Price and Schedule of Payments), County is entitled to request, and the parties thereafter shall negotiate reasonably and in good faith the fixed price payable for such Work. In no event, however, shall County be obligated to pay more for such Work than the amount originally agreed upon under this Agreement.

5.2 Specific Approval and Acceptance.

- 5.2.1. Go-Live. KHA shall achieve Go-Live on or before the date that is fifty-eight (58) weeks from the date County issues its notice to proceed under this Agreement. KHA shall achieve “Go-Live” upon successful completion of all the following: (a) its completion and delivery of all Tasks and Deliverables associated with the Go-Live requirements (including installing, implementing, and testing all System Software) set forth in the Statement of Work; (b) successful implementation of all functions and features of all phases has been verified by KHA; (c) County Project Director has provided KHA with written approval, as evidenced by County Project Director’s countersignature on all applicable Task/Deliverable Acceptance Certificates (including the Task/Deliverable Acceptance Certificate applicable to Go-Live), of all such Work (the date of satisfaction of the foregoing, including written approval thereof shall be referred to as the “Go-Live Date”).
- 5.2.2. Final Acceptance. KHA shall achieve Final Acceptance on or before the date that is seventy-four (74) weeks from the date County issues its notice to proceed under this Agreement, provided that such date may be extended in accordance with Paragraph 6 (Change Notices and Amendments). KHA shall achieve “Final Acceptance” upon successful completion of all the following: (a) its completion and delivery of all Tasks, subtasks, Deliverables, services and testing protocols associated with the Final Acceptance requirements set forth in the Statement of Work; (b) successful implementation of all functions and features of all phases and successful achievement of all testing protocols has been verified by KHA; (c) County Project Director has provided KHA with written approval, as evidenced by County Project Director’s countersignature on all applicable Task/Deliverable Acceptance Certificates, of all such Work; (d) all such Work has been provided, installed, and operates in County’s production environment with no Deficiencies more severe than a Level III Priority, as defined in Exhibit E (Maintenance & Support), for no less than two (2) thirty (30) day periods following the completion of Task 8 (System Acceptance and Configuration) of Exhibit B (Statement of Work); and (e) County Project Director has provided KHA with written approval, as evidenced by County Project Director’s countersignature on the applicable Task/Deliverable Acceptance Certificate, of KHA’s achievement of Final Acceptance (the date of satisfaction of the foregoing, including written approval thereof shall be referred to as the “Final Acceptance Date”).

6. **CHANGE NOTICES AND AMENDMENTS.** No representative of either County or KHA, including those named in this Agreement, is authorized to make any changes in any of the terms,



obligations, or conditions of this Agreement, except through the procedures set forth in this Paragraph 6.

6.1 General. County reserves the right to change any portion of the Work required under this Agreement, or amend such other terms and conditions, as may become necessary. Any such revision shall be accomplished in the following manner:

6.1.1. For any change which does not materially affect the scope of Work, period of performance, payments, or any other term or condition included under this Agreement, a Change Order shall be executed by both County Project Director and KHA Project Director.

6.1.2. Without limiting Paragraph 6.1.3, for any (a) Additional Services or (b) any other change related solely to the scope of Work, period of performance, or schedule or amount of payments, and provided such Additional Services or change is to be effected through the use of, and will not exceed, the available Pool Dollars, then in either instance a Change Order shall be mutually agreed upon and executed by both the Director and KHA Project Director.

6.1.3. For any change (a) that materially affects any term or condition in this Agreement, or (b) the cost for which would exceed the Pool Dollars, then a negotiated amendment to this Agreement shall be executed by the Board and KHA.

6.1.4. Notwithstanding any other provision of this Paragraph 6 or Paragraph 6 (Termination for Convenience; Suspension) of Exhibit A (Additional Terms and Conditions), the Director shall take all appropriate action to carry out any orders of the Board relating to this Agreement, and, for this purpose, the Director is authorized to: (i) issue written notice(s) of partial or total termination or suspension of this Agreement pursuant to Paragraph 6 (Termination for Convenience; Suspension) of Exhibit A (Additional Terms and Conditions) without further action by the Board and/or (ii) prepare and sign Amendments to this Agreement which reduce the Statement of Work and the Contract Sum without further action by the Board.

- (i) Such notices of partial or total termination shall be authorized under the following conditions:
  - (A) Notices shall be in compliance with all applicable federal, state and County laws, rules, regulations, ordinances, guidelines and directives.
  - (B) Director shall obtain approval of County Counsel for any notice.
  - (C) Director shall file a copy of all notices with the Executive Office of the Board within fifteen (15) days after execution of each notice.

- (ii) Such amendments shall be authorized under the following conditions:
  - (A) Notices shall be in compliance with all applicable federal, state and County laws, rules, regulations, ordinances, guidelines and directives.
  - (B) The Board has appropriated sufficient funds for purposes of such Amendments.
  - (C) Director shall obtain approval of County Counsel for any notice.
- (iii) Director shall file a copy of all amendments with the Executive Office of the Board within fifteen (15) days after execution of each amendment.

6.1.5. Notwithstanding any other provision of this Paragraph 6 (Change Notices and Amendments), to the extent that extensions of time for KHA performance do not impact either the scope of Work or cost of this Agreement, County Project Director, in its discretion, may grant KHA extensions of time in writing for the Work listed in the SOW or otherwise in this Agreement provided such extensions shall not cause KHA to fail to achieve Go-Live and Final Acceptance by the dates required therefor, or extend the Term of this Agreement.

6.2 Change Order. Any “Change Order” proposed or executed by the parties shall include, unless waived in writing by County Project Director:

- 6.2.1. a quotation of a “not to exceed” price for completion and delivery of the requested Work, including a proposed Task and Deliverable completion schedule and a monthly budget of anticipated expenditures (including labor expenses calculated using the Hourly Labor Rates for personnel time);
- 6.2.2. an accounting of the cost savings to be realized by County from the nonperformance of any Work that is to be supplanted by the Work to be performed under the Change Order;
- 6.2.3. KHA staff level recommended for completion of the applicable Work;
- 6.2.4. estimated personnel hours for completion of the requested Work;
- 6.2.5. to the extent Custom Programming Modifications are requested, functional System Software Specifications;
- 6.2.6. final delivery date for completed Work, including any post-delivery acceptance period as may be applicable;
- 6.2.7. if applicable, a revised Task and Deliverable completion schedule under the SOW for the remaining Work (*i.e.*, other than the Work requested under the Change Order);

- 6.2.8. a description of and KHA's cost of any applicable hardware, third party software, or other materials required to complete the requested Work; and
- 6.2.9. if applicable and mutually agreed upon by County and KHA, a statement that the requested Work is a County-Owned Customization.
- 6.3 Duration of KHA's Change Order Price Quotation. KHA's quotations under the proposed Change Order, including the "not to exceed price" under Paragraph 6.2.1, shall be valid for ninety (90) days from the date of its submission.
- 6.4 Change Order Dispute Resolution. In the event the parties fail to agree on the amount to be paid by County for the Work requested pursuant to a Change Order, County may, upon notice to KHA, elect to direct KHA to commence performing such Work (and KHA agrees to commence performing such Work) and resolve the dispute over amounts owed to KHA in accordance with the Dispute Resolution Procedure. To give effect to the preceding sentence, however, County agrees to pay and will pay the undisputed portion of such fees in accordance with the procedures set forth in Paragraph 5.1 (General) and Paragraph 10 (Invoices and Payments).
- 6.5 Change Order Audit. County is entitled to audit, in accordance with Paragraph 43 (Records and Audits) of Exhibit A (Additional Terms and Conditions), KHA's compliance with Paragraph 6.2 (Change Order) in respect of Work performed pursuant to a Change Order.
7. **TERM.** The term of this Agreement shall commence upon the Effective Date and shall continue until the date that is five (5) years from the Final Acceptance Date, unless terminated earlier in whole or in part, as provided in this Agreement (the "Initial Term"). County, through action taken by the Board, has the option, upon notice to KHA no later than fifteen (15) days prior to the end of the then current period of the Term, to extend the term of this Agreement for additional two (2) year periods, which additional periods shall not, in total, exceed four (4) additional years (each an "Option Term"). KHA shall notify County Project Manager and County Project Director when the Initial Term, or when each Option Term, as the case may be, is within six (6) months from the expiration of the Initial Term, or such Option Term, as the case may be, as provided for in this Paragraph 7 (Term). As used herein, the "Term" shall mean the Initial Term, and if extended, each Option Term, as the case may be.
8. **PRICES AND FEES.**
- 8.1 General. Attached to this Agreement as Exhibit C (Price and Schedule of Payments) is a schedule of all fees applicable to this Agreement, along with a payment schedule for completion of Work beginning on the Effective Date and continuing through the Term.
- 8.2 Maximum Contract Sum. The "Maximum Contract Sum" under this Agreement shall be the total monetary amount that would be payable by County to KHA for supplying the Integrated System and all Work, including the System Software and Pool Dollars under this Agreement for the Term. The Maximum Contract Sum for this Agreement,

including applicable Taxes, authorized by County hereunder shall in no event, expressly or by implication, exceed Two Million Seventy-Two Thousand Two Hundred and Fifty dollars (\$2,072,250.00) and shall be allocated as set forth in Exhibit C (Price and Schedule of Payments) which allocation shall include an itemization of the amount to be paid for: (a) license fee for the System Software, (b) Customizations, if applicable, (c) Interfaces, if applicable, (d) System Software implementation, (e) Maintenance Fees, (f) applicable Taxes, (g) Pool Dollars, and (h) applicable Hourly Labor Rates. KHA shall perform and complete all Work required of KHA by this Agreement in exchange for the amounts to be paid to KHA as set forth in this Agreement but in any event, not in excess of the Maximum Contract Sum. KHA acknowledges and agrees that the Maximum Contract Sum is an all-inclusive, not-to-exceed price, that is an agreed upon assessment of the amount to be paid by County to KHA in exchange for KHA delivering to County, and County accepting, within the required delivery schedule an Integrated System. KHA further acknowledges that the Specifications set forth in the Statement of Work are functional Specifications and that it is KHA's responsibility to design, achieve and timely deliver an Integrated System. Notwithstanding any provision of this Agreement to the contrary, KHA is not obligated to perform Work under Change Orders if Pool Dollars are not available to pay for such Work.

- 8.3 Pool Dollars. Exhibit C (Price and Schedule of Payments) includes the aggregate pool dollars available for Change Orders or for the purchase by County of Additional Services in accordance with Paragraph 13.5 (Additional Services) (collectively, "Pool Dollars"). KHA acknowledges that, as of the Effective Date, no Change Orders have been executed and no Additional Services have been requested by County.
- 8.4 Adjustments to Hourly Labor Rates. Commencing upon the expiration of the Initial Term, the Hourly Labor Rates may be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index for the Los Angeles – Riverside – Orange County Area for the most recently published percentage change for the twelve (12) month period preceding the anniversary date of the expiration of the Initial Term and any applicable Option Term, which shall be the effective date for any such adjustment. However, any increase shall not exceed the general annual percentage salary change granted to County employees as determined by County's Chief Administrative Office as of the prior July 1. Furthermore, should fiscal circumstances ultimately prevent the Board from approving any increase in County employee salaries, KHA acknowledges that there shall be no corresponding adjustment to the Hourly Labor Rates for Additional Services.
- 8.5 Delivery of System Software; Taxes.
- 8.5.1. KHA agrees that all System Software and Documentation, including all Updates, Custom Programming Modifications, and any items or materials provided under Maintenance Services, shall be delivered (a) solely in electronic form (e.g. via electronic mail or internet download), or (b) personally by KHA staff who may load the System Software and Documentation onto County's hardware but who will retain possession of all originals and copies of such tangible media (e.g. CD-

ROM, magnetic tape, printed manuals) used to deliver the System Software and Documentation to County. KHA, including KHA's subcontractors, shall not deliver or provide any tangible items to County, and County will not accept delivery of any of the same. Without limiting the generality of the foregoing, KHA shall not deliver or provide any System Software, Documentation, training materials, or Maintenance Services on magnetic, optical, print or other tangible media under this Agreement.

8.5.2. County acknowledges that the amounts payable by County to KHA under this Agreement, including for Maintenance Services, do not include Taxes for products or services provided by KHA hereunder. County shall be solely responsible for any Taxes, other than Taxes based on KHA's income or gross revenue, properly charged or assessed on amounts payable thereunder by County to KHA, except that KHA acknowledges that it is responsible for any Tax liability arising as a result of KHA's breach of any obligations under this Agreement, including this Paragraph 8.5 (Delivery of System Software; Taxes).

**9. COUNTY'S OBLIGATION FOR FUTURE FISCAL YEARS.** Notwithstanding any other provision of this Agreement, either expressly or by implication, County shall not be obligated for KHA's performance hereunder or by any provision of this Agreement during any of County's future fiscal years unless and until County's Board appropriates funds for this Agreement in County's budget for each such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated and such termination shall be deemed a termination for convenience pursuant to Paragraph 6 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions). County shall endeavor to notify KHA in writing of any such non-appropriation of funds at the earliest possible date.

## **10. INVOICES AND PAYMENTS.**

10.1 Approval of Invoices. All invoices submitted by KHA for payment must have the written approval of County Project Director, as evidenced by County Project Director's countersignature to the applicable Task/Deliverable Acceptance Certificate, prior to any payment thereof. In no event shall County be liable or responsible for any payment prior to such written approval.

10.2 Submission of Invoices. KHA shall invoice County upon completion of Tasks, subtasks, Deliverables, and services and other Work which are specified in this Agreement, Exhibit B (Statement of Work), Exhibit C (Price and Schedule of Payments), Exhibit E (Maintenance & Support), and any Change Orders, as applicable, and which have been approved in writing by County pursuant to Paragraph 5 (Work; Approval and Acceptance). With regard to Maintenance Services provided to County pursuant to Paragraph 13 (Maintenance, Support and Additional Services) and Exhibit E (Maintenance & Support), KHA shall invoice County the amount of the Maintenance Fee, on a monthly basis in arrears. Except with regard to Documentation Deliverables which are titled "draft" in Exhibit B (Statement of Work), which shall be invoiced as

described in Paragraph 5.1 (General), KHA agrees not to submit any invoice for payment until County has approved in writing the Work for which payment is claimed. County will endeavor reasonably to process each invoice received from KHA within thirty (30) days. All invoices and supporting documents under this Agreement shall be submitted in duplicate to the following address:

County of Los Angeles Department of Public Works  
Fiscal Division, 7th Floor  
Accounts Payable Section  
P.O. Box 7508  
Alhambra, CA 91803-7508

10.3 Detail. Each invoice submitted by KHA shall include:

10.3.1. The Tasks, subtasks, Deliverables, services, or other Work as described in Exhibit B (Statement of Work), Exhibit C (Price and Schedule of Payments), Exhibit E (Maintenance & Support), and any Change Order, as applicable, for which payment is claimed.

10.3.2. A copy of all applicable Task/Deliverable Acceptance Certificates.

10.3.3. If the invoice is for Additional Services or any other Work for which Pool Dollars will be utilized, a copy of the applicable Change Order, executed by the applicable representative of County, a copy of the Task/Deliverable Acceptance Certificate evidencing County's approval of such Work, and any additional supporting documentation reasonably requested by County. The invoice further shall include the cumulative amount of Pool Dollars charged to County to date, and the remaining Pool Dollars available for use in connection with future Additional Services or other Change Orders.

10.3.4. If applicable, the amount due under Task 1 (Project Management) or Task 9.1 (Final Acceptance) of Exhibit B (Statement of Work), which shall be the lesser of: (i) the maximum amount for Task 1 or Task 9.1 as enumerated in Exhibit C (Price and Schedule of Payments) or (ii) the total cost of Work performed for the invoiced period. The total cost of Work performed shall be calculated by multiplying the amount of hours worked by the applicable Hourly Labor Rates set forth in Attachment 2 (KHA's Applicable Hourly Labor Rates) to Exhibit C (Price and Schedule of Payments).

10.3.5. Indication of the maximum amount remaining under Task 1 (Project Management) or Task 9.1 (Final Acceptance) of Exhibit B (Statement of Work), which shall equal: (i) the maximum amount available for Task 1 or Task 9.1 as enumerated in Exhibit C (Price and Schedule of Payments) less (ii) the cumulative cost accrued for Work performed under Task 1 (Project Management) or Task 9.1 (Final Acceptance) of Exhibit B (Statement of Work) to date.

- 10.3.6. Indication of the applicable Holdback Amount and the cumulative Holdback Amount accrued under the Agreement.
- 10.3.7. Indication of any applicable withholds or credits due to County under the terms of this Agreement or reversals thereof, including credits assessed in accordance with Paragraph 10.8 (Credits to County).
- 10.4 No Partial or Progress Payments. KHA shall be entitled to payment in respect of a Task or Deliverable, or other Work, only upon successful completion by KHA and approval by County of such Task or Deliverable, or other Work. Except with regard to Documentation Deliverables which are titled “draft” in Exhibit B (Statement of Work), which shall be invoiced as described in Paragraph 5.1 (General), and Maintenance Services provided to County pursuant to Paragraph 13 (Maintenance, Support and Additional Services) and Exhibit E (Maintenance & Support), which shall be invoiced as described in Paragraph 10.2 (Submission of Invoices), no partial or progress payments towards anticipated or substantial completion of Tasks or Deliverables, or other Work, will be made under this Agreement.
- 10.5 Invoice Discrepancy Report. County Project Director or County Project Director’s designee shall review all invoices for any discrepancies and provide an “Invoice Discrepancy Report” (or “IDR”), orally or in writing, to KHA within fifteen (15) days of receipt of invoice if payment amounts are disputed. KHA shall review the disputed charges and issue a corrected invoice or send a written explanation detailing the basis for the charges within ten (10) days of receipt of the IDR from County Project Director or County Project Director’s designee. If County Project Director or County Project Director’s designee does not receive a written response within ten (10) days of County’s notice to KHA of an IDR, then County payment will be made, less the disputed charges.
- 10.6 County’s Right to Withhold. In addition to any rights of County provided in this Agreement, or at law or in equity, County may, upon notice to KHA, withhold payment for any Work while KHA is in default hereunder, or at any time that KHA has not provided County approved Work.
- 10.7 Holdbacks. County will hold back ten percent (10%) of the amount of each invoice approved by County pursuant to Paragraph 10 (Invoices and Payments) and ten percent (10%) of the amount of each invoice for Additional Services approved by County under Paragraph 13.5 (Additional Services) (collectively, the “Holdback Amount”). The cumulative amount of such holdbacks shall be due and payable to KHA upon the first working day following the expiration of the Warranty Period, subject to adjustment for any amounts arising under this Agreement owed to County by KHA, including, but not limited to, any amounts arising from Paragraphs 10.5 (Invoice Discrepancy Report), 10.6 (County’s Right to Withhold), 10.8 (Credits to County) and any partial termination of any Task, Subtask or Deliverable set forth in the Statement of Work as provided hereunder.
- 10.8 Credits to County.

10.8.1. In an increasingly mobile society, it is critical to improve traffic flow through multiple jurisdictions within the County of Los Angeles in an effort to enhance mobility, relieve traffic congestion and increase air quality. To meet these goals, County is implementing a Countywide information exchange network that will provide continuous monitoring of traffic conditions and traffic signal operations, as well as enable traffic signal timing to be controlled and coordinated remotely to adjust to actual traffic conditions. It will also allow for the exchange of traffic data and information among different agencies within the County of Los Angeles. For the information exchange network to function effectively, each agency must use a traffic control system that communicates with the information exchange network to allow the exchange of traffic data and information between agencies. The Integrated System will communicate with the information exchange network, and is being administered by County as the traffic control system for the unincorporated areas of the County of Los Angeles as well as certain agencies within the County. Because many agencies need to be brought online in a timely manner, time is of the essence to implement the Integrated System. Any delay in the completion and delivery of the Integrated System decreases the efficiency and value of both the Integrated System and the information exchange network. County and KHA have identified the key Deliverables set forth in Paragraph 10.8.2, KHA's timely completion and delivery of which will ensure County receives, and is able to implement, the Integrated System in a timely fashion, and therefore improve mobility, relieve traffic congestion and enhance air quality in the County of Los Angeles. If KHA fails to complete and deliver such Deliverables by the dates set forth in Paragraph 10.8.2, it is mutually agreed that such delay increases the likelihood that KHA will not complete and deliver the Integrated System in a timely manner, and therefore decreases County's ability to use the Integrated System to achieve its goals.

10.8.2. County shall be entitled to credits arising from KHA's noncompliance with its obligations relating to any of the following Deliverables:

- (i) Deliverable 6.3 – Factory Demonstration;
- (ii) Deliverable 6.5 – System Installation for Sixteen (16) Intersections;
- (iii) Deliverable 8.1(b) – Acceptance Test Report Final.

10.8.3. Such credits will be calculated according to the following rules:

- (i) Deliverables not properly completed within thirty (30) working days of the Deliverable due date, as specified in Exhibit C (Price and Schedule of Payments), shall entitle County to a credit of five percent (5%) of the actual cost of such Deliverable, as set forth in Exhibit C (Price and Schedule of Payments).



- (ii) The credit shall be increased by one percent (1%) of such cost each working day the Deliverable is late beyond the thirty (30) working days.

10.8.4. Deliverables shall not be considered late if their delay is due to circumstances above and beyond the control of KHA, including but not limited to, (i) the failure of County or other impacted jurisdictions to provide comments within the timeframes set forth in Exhibit C (Price and Schedule of Payments) and (ii) the failure of an approved subcontractor to complete work in accordance with the timeframes set forth in the statement of work attached to such subcontract, provided KHA has filed a timely Notice of Delay pursuant to Paragraph 15 (Notice of Delay) of Exhibit A (Additional Terms and Conditions) in respect of such circumstance. County may apply the full amount of any credit hereunder to offset and reduce any payments owing hereunder by County at any time by the full amount of such credit.

## **11. DEFICIENCIES.**

- 11.1 Deficiencies. As used herein, the term “Deficiency” shall mean and include, as applicable to any Work provided by or on behalf of KHA to County: any malfunction, error, or defect in the design, development, or implementation of Work; any error or omission, or deviation from the Specifications or mutually agreed upon industry standards, or any other malfunction or error (other than a defect, error, omission or deviation to the Customizations or Interfaces caused by County’s modification of the Customizations Source Code), including the provision of negligent workmanship, which results in the Integrated System, in whole or in part, not performing in accordance with the provisions of this Agreement, including the SOW, as determined by County Project Director, which determination shall be subject to the Dispute Resolution Procedures set forth in Paragraph 2 (Dispute Resolution Procedures) of Exhibit A (Additional Terms and Conditions).
- 11.2 Corrective Measures. County Project Director shall notify KHA Project Director in writing, or if not practicable, orally to either KHA Project Director or KHA Project Manager, of any Deficiency. Upon the earlier of (a) notice (orally or in writing) from County, or (b) KHA’s discovery of such Deficiency, KHA shall promptly commence corrective measures to remedy any Deficiency, and shall remedy such Deficiency, in accordance with the timeline set forth in Exhibit E (Maintenance & Support). KHA acknowledges that, as part of Maintenance Services provided to County, KHA may be required to repair, replace or reinstall all or any part of the System Software, System Hardware (to the extent such hardware fails to achieve Compatibility with the Integrated System), or other material, or create an Update, in order to remedy a Deficiency.
- 11.3 Approval. No Deficiency shall be deemed remedied until all necessary remedial action has been completed and approved in writing by County Project Director in accordance with the procedures set forth in Paragraph 5.1 (General).

## **12. REPRESENTATIONS AND WARRANTIES.**

- 12.1. KHA hereby represents, warrants and covenants to County that for the Term, the System Software shall be fully Compatible with and shall fully integrate, perform, and function with the System Hardware and the operating system software that conform to the specifications set forth in Appendix A (System Specifications) to Exhibit B (Statement of Work).
- 12.2. As used in the Agreement, the “Warranty Period” means the period commencing on the Final Acceptance Date and continuing for twelve (12) months thereafter. KHA hereby represents, warrants and covenants to County that for the Warranty Period:
  - 12.2.1. The System Software shall perform fully in accordance with the Specifications or any amendments thereto;
  - 12.2.2. KHA shall provide all Maintenance Services to correct all Deficiencies in accordance with Exhibit E (Maintenance & Support), and other than the dollar amount enumerated for Task 9.2 (System Warranty) in Exhibit C (Price and Schedule of Payments), KHA shall not charge, and County shall not pay, any Maintenance Fees until the beginning of the first calendar day following the expiration of the Warranty Period.

### **13. MAINTENANCE, SUPPORT AND ADDITIONAL SERVICES.**

- 13.1 Maintenance Services. KHA shall provide support and maintenance services (collectively, “Maintenance Services”) to County for the Integrated System in accordance with this Agreement and Exhibit E (Maintenance & Support).
- 13.2 Correction of Deficiencies. Maintenance Services include the correction of any and all Deficiencies that occur during the Term in accordance with the timetable set forth in Paragraph II.C.3 of Exhibit E (Maintenance & Support). Correction of such Deficiencies shall be at no additional cost to County beyond the Maintenance Fee. If any component of the Integrated System requires Maintenance Services, KHA shall endeavor reasonably to provide such services at County’s location (which may include the provision of such services remotely by KHA).
- 13.3 Updates. Subject to the remainder of this Paragraph 13.3 (Updates), Maintenance Services include: (i) any upgrades, updates, enhancements, revisions, new version releases, improvements, bug fixes, patches, and modifications, other than Custom Programming Modifications, to the System Software, (ii) any testing or modifications as may be necessary to maintain System Software functionality, including as modified by any Updates, with the current version release of operating software and System Hardware that are utilized by County as of the Effective Date, and (iii) any updates or modifications required during the Term in order for the System Software and the Integrated System to remain in compliance with applicable federal or state and local laws and regulations (collectively, “Updates”), which Updates shall be provided by KHA to County at no additional cost beyond the Maintenance Fee. Any Update delivered by KHA to County

is deemed a part of the System Software and shall be included in the License granted to County pursuant to this Agreement.

13.4 System Hardware. Maintenance Services includes the support of System Hardware to the extent such System Hardware fails to achieve Compatibility with the Integrated System.

13.5 Additional Services.

13.5.1. Subject to Paragraph 6 (Change Notices and Amendments), upon the written request of County Project Director made at any time and from time to time during the Term, KHA shall provide to County “Additional Services,” such as customizations or modifications to the System Software that are requested by County Project Director in order to create new functionality and customizations or modifications not required of KHA in order to deliver the Integrated System or included as part of Maintenance Services (such custom programming is collectively referred to as “Custom Programming Modifications”). Additional Services may also include additional or refresher training beyond what is provided in Exhibit E (Maintenance & Support). Additional Services shall utilize available Pool Dollars under this Agreement, and in no event shall County be obligated to pay in excess of the then available Pool Dollars for Additional Services, nor shall KHA be required to perform any Additional Services for which there are no Pool Dollars available to pay KHA for such Additional Services.

13.5.2. Additional Services, including Custom Programming Modifications, shall be treated by the parties as a change requiring the execution of a Change Order pursuant to Paragraph 6 (Change Notices and Amendments).

13.5.3. Upon County’s request for Additional Services, KHA shall provide County, within seven (7) days of receipt of such request, a proposed Change Order containing all the information requested under Paragraph 6.2 (Change Order). Approval of the Change Order and of the Work to be performed thereunder shall be in accordance with Paragraph 6 (Change Notices and Amendments).

13.5.4. Upon completion, delivery and acceptance by County of any Custom Programming Modifications, such Custom Programming Modifications shall become part of and be included in System Software.

#### **14. OWNERSHIP; LICENSE.**

14.1 Ownership. The Baseline Software, Interfaces and KHA-Owned Customizations provided to County pursuant to this Agreement, other than Third Party Software, shall remain the property of KHA, and all such Baseline Software, Interfaces and KHA-Owned Customizations are subject to the License granted to County pursuant to this Paragraph 14 (Ownership; License). Upon delivery to and acceptance by County of any and all County-Owned Customizations, County shall own all right, title and interest in the

County-Owned Customizations, including the County-Owned Customizations Source Code, subject to a perpetual, non-exclusive license by County to KHA of the County-Owned Customizations for all uses by KHA in connection with the conduct by KHA of its business.

14.2 License. Subject to Paragraph 14.1 (Ownership), KHA grants to County, effective as of the Effective Date, a perpetual, nonexclusive license in respect of KHA's interest in the System Software (the "License"):

- 14.2.1. To use, install, integrate with other software, operate, and execute the System Software on an unlimited number of computers, servers, local area networks and wide area networks in order to communicate with an unlimited number of intersections, by an unlimited number of users, except that the use, operation, and execution of certain Third Party Software shall be subject to limitations on the number of concurrent users as set forth in Paragraph 16 (Third Party Software);
- 14.2.2. To extend connection of the Integrated System to all of the cities or agencies within County that acquire separate licenses to KHA's KITS system. Such licenses shall be provided to such cities or agencies at the price set forth on Exhibit C (Price and Schedule of Payments);
- 14.2.3. To permit agencies or cities to access, use, and conduct transactions with County using the System Software, or otherwise as may be necessary for the conduct by County, and more specifically the Department, of its business;
- 14.2.4. To archive and make sufficient numbers of copies of the System Software as is necessary for County to enjoy and exercise fully its rights under this License and this Agreement;
- 14.2.5. To use, modify, copy, and display the Documentation, as necessary or appropriate for County to enjoy and exercise fully the rights granted under this Agreement and the License;
- 14.2.6. To use, modify, copy, translate, compile, and create derivative works from the County-Owned Customizations and the County-Owned Customizations Source Code;
- 14.2.7. To permit third party access to the System Software, the Documentation, the System Software Source Code, or any part thereof, as necessary or appropriate for County to enjoy and exercise fully the rights granted under this Agreement and the License, including for the provision of Maintenance Services, Additional Services or other support of the System Software; provided, however, without limiting County's rights pursuant to Paragraph 14.2.3 or Paragraph 14.2.6, County covenants and agrees that it shall not exercise any of the rights contained in this Paragraph 14.2.7 unless and until the occurrence of any act that causes or results

in, or entitles County to, a release of the Source Code from escrow pursuant to Paragraph 15 (Source Code).

- 14.3 Fully-Paid Software License. Notwithstanding anything herein to the contrary, upon (i) the Final Acceptance Date, and (ii) County's payment to KHA of all approved invoiced amounts for said Work, this License is and shall be a fully paid, irrevocable License to the System Software and System Software Source Code, as modified by the Work performed under this Agreement, which License survives the termination or expiration of this Agreement for any reason.

## 15. SOURCE CODE.

- 15.1 County-Owned Customizations Source Code. KHA shall deliver to County, in an electronic format specified by County Project Manager and in accordance with the Statement of Work, a copy of the County-Owned Customizations Source Code, and KHA further covenants and agrees that during the Term it shall promptly notify County of any changes, modifications, amendments, or Updates to the County-Owned Customizations Source Code and shall promptly deliver to County a copy of such changed, modified, updated, or amended source code.
- 15.2 Self Escrow. KHA shall deposit with County the System Software Source Code (other than County-Owned Customizations Source Code and Third Party Software Source Code). Such escrow deposits shall be made concurrent with the delivery to County of Tasks, subtasks, and Deliverables, as applicable, pursuant to the SOW. KHA's duty to deposit the System Software Source Code with County shall continue throughout the Term. Except as provided in Paragraph 15.2.1 (County's Right to Verify Source Code), County shall hold the System Software Source Code in strict confidence and not use it for any purpose unless one of the conditions described in Paragraph 15.2.2 (Conditions for Release) has occurred which would permit County to use the System Software Source Code as provided in Paragraphs 15.2.3 (Release of System Software Source Code) and 15.2.4 (Use and Possession of System Software Source Code). The parties acknowledge that as a result of the passage of time alone, the deposited System Software Source Code may be susceptible to loss of quality ("Natural Degeneration"). For the purpose of reducing the risk of Natural Degeneration, during the Term, KHA shall deliver to County a new copy of all deposited System Software Source Code at least once every three (3) years. In the event the System Software Source Code or any part of it is destroyed or corrupted, upon County Project Director's request, KHA shall provide a replacement copy of the System Software Source Code. KHA shall deliver the replacement copy of the System Software Source Code within thirty (30) days of receipt of County Project Director's written request.
- 15.2.1. County's Right to Verify Source Code. Regardless of whether one of the Release Conditions occurs, County shall have the right to verify the relevance, completeness, currency, accuracy, and functionality of the System Software Source Code by, among other things, compiling the System Software Source

Code and performing test runs for comparison with the System Software other than System Software which constitutes Third Party Software.

- 15.2.2. Conditions for Release. The System Software Source Code on deposit with County shall be released from escrow upon the earlier to occur of: (a) termination of this Agreement pursuant to Paragraph 4 (Termination for Insolvency) of Exhibit A (Additional Terms and Conditions); (b) termination by County of Maintenance Services for KHA's breach of such Maintenance Service obligations; (c) termination by County pursuant to Paragraph 2 (KHA Responsibility and Debarment) of Exhibit A (Additional Terms and Conditions); or (d) KHA's determination to discontinue the provision of Maintenance Services for any reason other than County's nonpayment of any undisputed Maintenance Fees accrued hereunder, unless prior to KHA's discontinuation of Maintenance Services, KHA assigns such obligation to a third party approved in advance by County pursuant to Paragraph 38 (Assignment by KHA) of Exhibit A (Additional Terms and Conditions).
- 15.2.3. Release of System Software Source Code. In the event of a claim to the System Software Source Code under this Paragraph 15.2.3, then County shall provide KHA with a written notice outlining the facts upon which County bases its claim that a Release Condition has occurred. KHA may contest County's right to use the Source Code pursuant to the Dispute Resolution Procedures set forth in Paragraph 2 (Dispute Resolution Procedures) of Exhibit A (Additional Terms and Conditions). If the Dispute Resolution Procedures result in disagreement between the president of KHA and County as to whether a basis exists for any claim by County to the Source Code, and County continues to believe that such a basis does exist, then County may, in its sole discretion, give notice of such belief to KHA, in which event County may, at any time on or after a date that is seven (7) days after the giving of such notice, utilize any or all of the System Software Source Code in the manner set forth in Paragraph 15.2.4 (Use and Possession of System Software Source Code) below.
- 15.2.4. Use and Possession of System Software Source Code. Subject to the provisions of Paragraph 14.2, System Software Source Code obtained by County under the provisions of this Agreement shall remain subject to every License restriction, proprietary rights protection, and other County obligation specified in this Agreement. County may use System Software Source Code for the sole purpose as it is Licensed hereunder. When System Software Source Code is not in use, County agrees to keep such System Software Source Code in a locked, secure place. When System Software Source Code resides in a central processing unit, County shall limit access to its authorized employees and consultants who have a need to know in order to support the Integrated System.

## **16. THIRD PARTY SOFTWARE.**

- 16.1. KHA hereby represents and warrants that none of the System Software other than the third party software as specified in Exhibit F (Third Party Software), is owned by third parties (the “Third Party Software”). KHA represents and warrants that it has not modified and shall not modify, nor does KHA have any need to modify, Third Party Software in order for the System Software to fully perform in accordance with all requirements of this Agreement. KHA represents and warrants that all Third Party Software is provided to County in the same unmodified form as received by KHA from the applicable third party. KHA represents and warrants that Third Party Software shall, together with the remainder of the System Software, fully satisfy all requirements of the Agreement without the need for any modification of Third Party Software by KHA or otherwise.
- 16.2. County acknowledges that it may have to execute certain third party license agreements in respect of such Third Party Software. These third party license agreements shall be at no additional cost to County. To the extent that any such third party license agreement conflicts with this Agreement or in any way restricts County’s full use and enjoyment of the System Software as contemplated herein, KHA shall take all necessary action and pay all sums required for County fully to enjoy all the rights and benefits in respect of the System Software granted under this Agreement. KHA shall promptly and at no cost to County, either: (1) obtain a license from the appropriate third party which shall enable KHA to modify such Third Party Software, and KHA shall provide all necessary modifications, or (2) to the extent that KHA is unable to obtain such a license, provide an Update or alternative solution, which is functionally equivalent, in the sole determination of KHA Project Manager and County Project Manager, in lieu of modifying such Third Party Software.

**17. MINIMUM SYSTEM REQUIREMENTS; COMPATIBILITY.** Appendix A (System Specifications) to Exhibit B (Statement of Work) sets forth the minimum requirements for System Hardware and operating system software that are Compatible (as defined below) with the Integrated System, including any Custom Programming Modifications and Updates thereto, and are required for County to enjoy and exercise fully its rights in respect of the Integrated System. Such matrixes shall specify version Compatibility and shall provide Specifications for installation of the System Hardware and operating system software in order to achieve Compatibility with the System Software, along with recommended System Hardware make and model numbers. KHA may request to inspect County’s installation of the System Hardware or operating system software, provided that any such inspection, or lack thereof, shall not relieve KHA of its obligations with respect to Paragraph 12 (Representations and Warranties) or Paragraph 13 (Maintenance, Support and Additional Services). As used herein, “Compatible” or “Compatibility” means that the applicable System Hardware and operating system software, as the case may be, as set forth in Appendix A (System Specifications) to Exhibit B (Statement of Work) are capable of supporting, operating and otherwise performing all such System Hardware or operating system software anticipated functions when used in conjunction with the System Software, including any Customizations, Interfaces, Updates, and Custom Programming Modifications thereto.

18. **KHA'S OFFICES.** KHA's business offices are located at 7878 N. 16<sup>th</sup> Street, Suite 300, Phoenix, AZ 85020-4467. KHA shall notify County of any change in its business address at least ten (10) calendar days prior to the effective date thereof.
19. **PRODUCTION USE OF THE SYSTEM.** Following installation by KHA and prior to Final Acceptance by County, County shall have the right to use, in production mode, any completed portion of the System Software without any additional cost to County where County determines that it is desirable or necessary for County operations. Such production use shall not restrict KHA's performance under this Agreement and shall not be deemed to be KHA's achievement of Go-Live or Final Acceptance.
20. **NOTICES.** All notices or demands required or permitted to be given or made under this Agreement, unless otherwise specified, shall be in writing and shall be addressed to the parties at the following addresses and delivered: (1) by hand with signed receipt, (2) by first-class registered or certified mail, postage prepaid, (3) by facsimile or electronic mail transmission followed within twenty-four (24) hours by a confirmation copy mailed by first-class registered or certified mail, postage prepaid, or (4) by overnight commercial carrier, with signed receipt. Notices is deemed given at the time of signed receipt in the case of hand delivery, three (3) days after deposit in the United States mail as set forth above, on the date of facsimile or electronic mail transmission if followed by timely confirmation mailing, or on the date of signature receipt by the receiving part of any overnight commercial carrier delivery. Addresses may be changed by either party giving ten (10) days prior notice in accordance with the procedures set forth above, to the other party.

To County:

Jane White  
County of Los Angeles  
Department of Public Works  
Traffic and Lighting Division  
P.O. Box 1460  
Alhambra, CA 91802-1460  
Telephone: (626) 300-2020  
Fax: (626) 300-4736  
E-mail: [jwhite@ladpw.org](mailto:jwhite@ladpw.org)

with a copy to:

County Counsel, Los Angeles County  
500 West Temple Street  
Los Angeles, CA 90012  
Attention: Jose Silva, Esq.  
Facsimile: (213) 617-7182



To KHA:

Kimley and Associates, Inc.  
7878 N. 16<sup>th</sup> Street  
Suite 300  
Phoenix, AZ 85020-4467  
Attention: Jason Castillo  
Facsimile: (602) 944-7423

with a copy to:

Kimley-Horn and Associates, Inc.  
7878 N. 16<sup>th</sup> Street  
Suite 300  
Phoenix, AZ 85020-4467  
Attention: Pierre Pretorius  
Facsimile: (602) 944-7423

County Project Director shall have the authority to issue all notices or demands, which are required or permitted by County under this Agreement.

21. **ARM'S LENGTH NEGOTIATIONS.** This Agreement is the product of an arm's length negotiation between KHA and County. Each party has had at all times the opportunity to receive advice from independent counsel of its own choosing. Accordingly, this Agreement is to be interpreted fairly as between the parties, and not strictly construed as against either party as drafter or creator.
22. **SURVIVAL.** The following Paragraphs of this Agreement shall survive its expiration or termination for any reason: 1, 2, 7, 8, 9, 10, 14, 15, 16, 20, 21, and 22, and all the terms and conditions set forth in Exhibit A (Additional Terms and Conditions).

**[Intentionally Left Blank]**

AGREEMENT  
BETWEEN COUNTY OF LOS ANGELES  
AND  
KIMLEY-HORN AND ASSOCIATES, INC.

IN WITNESS WHEREOF, the Los Angeles County Board of Supervisors has caused this Agreement to be subscribed by its Chairman and the seal of such Board to be hereto affixed and attested by the Executive Officer thereof, and KHA has caused this Agreement to be subscribed in its behalf by its authorized officer, effective as of the date approved by such Board.

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:  
VIOLET VARONA-LUKENS  
Executive Officer-Clerk  
of the Board of Supervisors

By \_\_\_\_\_  
Deputy

\_\_\_\_\_  
KHA  
Signed: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:  
OFFICE OF THE COUNTY COUNSEL

By \_\_\_\_\_  
Jose Silva  
Title: Principal Deputy County  
Counsel

**EXHIBIT A**

**ADDITIONAL TERMS AND CONDITIONS**

**TABLE OF CONTENTS**  
**EXHIBIT A – ADDITIONAL TERMS AND CONDITIONS**

	<u>Page</u>
EXHIBIT A.....	i
ADDITIONAL TERMS AND CONDITIONS .....	i
EXHIBIT A ADDITIONAL TERMS AND CONDITIONS .....	1
1. SUBCONTRACTING.....	1
2. DISPUTE RESOLUTION PROCEDURE.....	3
3. CONFIDENTIALITY.....	4
4. TERMINATION FOR INSOLVENCY.....	6
5. TERMINATION FOR DEFAULT.....	7
6. TERMINATION FOR CONVENIENCE; SUSPENSION.....	8
7. TERMINATION FOR IMPROPER CONSIDERATION.....	10
8. TERMINATION FOR GRATUITIES .....	10
9. EFFECT OF TERMINATION.....	10
10. WARRANTY AGAINST CONTINGENT FEES.....	12
11. AUTHORIZATION WARRANTY.....	12
12. FURTHER WARRANTIES .....	12
13. INDEMNIFICATION, INSURANCE AND LETTER OF CREDIT.....	13
14. INTELLECTUAL PROPERTY INDEMNIFICATION.....	17
15. NOTICE OF DELAY .....	18
16. FORCE MAJEURE .....	18
17. CONTRACTOR RESPONSIBILITY AND DEBARMENT.....	18
18. COMPLIANCE WITH APPLICABLE LAW.....	19

**TABLE OF CONTENTS**  
(continued)

	<u>Page</u>
19. FAIR LABOR STANDARDS .....	20
20. NONDISCRIMINATION, AFFIRMATIVE ACTION, AND ASSURANCES .....	20
21. EMPLOYMENT ELIGIBILITY VERIFICATION .....	21
22. HIRING OF EMPLOYEES .....	22
23. CONFLICT OF INTEREST .....	22
24. RESOLICITATION OF BIDS, PROPOSALS, OR INFORMATION .....	23
25. RESTRICTIONS ON LOBBYING .....	23
26. CONSIDERATION OF GAIN PROGRAM PARTICIPANTS FOR EMPLOYMENT .....	23
27. NONDISCRIMINATION IN SERVICES .....	23
28. STAFF PERFORMANCE WHILE UNDER THE INFLUENCE .....	24
29. KHA PERFORMANCE DURING CIVIL UNREST .....	24
30. KHA’S WARRANTY OF ADHERENCE TO COUNTY’S CHILD SUPPORT COMPLIANCE PROGRAM .....	24
31. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY’S CHILD SUPPORT COMPLIANCE PROGRAM .....	24
32. KHA’S ACKNOWLEDGMENT OF COUNTY’S COMMITMENT TO CHILD SUPPORT ENFORCEMENT .....	25
33. RECYCLED-CONTENT PAPER .....	25
34. COMPLIANCE WITH JURY SERVICE PROGRAM .....	25
35. ACCESS TO COUNTY FACILITIES .....	26
36. COUNTY FACILITY OFFICE SPACE .....	26
37. DAMAGE TO COUNTY FACILITIES, BUILDINGS, OR GROUNDS .....	26
38. PHYSICAL ALTERATIONS .....	27

**TABLE OF CONTENTS**  
(continued)

	<u>Page</u>
39. FEDERAL EARNED INCOME TAX CREDIT .....	27
40. ASSIGNMENT BY KHA.....	27
41. CONTINUOUS PRODUCT SUPPORT .....	27
42. INDEPENDENT CONTRACTOR STATUS.....	28
43. RECORDS AND AUDITS.....	29
44. LICENSES, PERMITS, REGISTRATIONS, ACCREDITATION, AND CERTIFICATES.....	30
45. NEW TECHNOLOGY .....	30
46. NO THIRD PARTY BENEFICIARIES.....	31
47. MOST FAVORED PUBLIC ENTITY.....	31
48. COUNTY’S QUALITY ASSURANCE PLAN .....	31
49. CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST.....	31
50. KHA TO NOTIFY COUNTY WHEN IT HAS REACHED 75% OF TOTAL CONTRACT SUM (UNDER CONTRACT SUM PROVISION) .....	31
51. NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION/ TERMINATION OF AGREEMENT .....	32
52. SAFELY SURRENDERED BABY LAW .....	32
53. BUDGET REDUCTIONS .....	32
54. WAIVER.....	32
55. GOVERNING LAW, JURISDICTION, AND VENUE .....	33
56. SEVERABILITY .....	33
57. RIGHTS AND REMEDIES .....	33

**TABLE OF CONTENTS**  
(continued)

Page

58.	FACSIMILE .....	33
59.	CAPTIONS AND PARAGRAPH HEADINGS.....	33

## EXHIBIT A

### ADDITIONAL TERMS AND CONDITIONS

The following additional terms and conditions are applicable to, and form a part of, the Agreement. Capitalized terms not otherwise defined in this Exhibit A (Additional Terms and Conditions (as used in this Exhibit A (Additional Terms and Conditions), this “Exhibit”) shall have the meanings given to such terms in the base document of the Agreement.

#### 1. SUBCONTRACTING.

- 1.1. General. County has relied, in entering into the Agreement, on the reputation of and on obtaining the personal performance of KHA itself. Consequently, no performance of the Agreement, or any portion thereof, shall be subcontracted by KHA except in accordance with the procedures set forth in this Paragraph 1 (Subcontracting). Any attempt by KHA to subcontract any performance, obligation, or responsibility under the Agreement, except in accordance with the procedures set forth in this Paragraph 1 (Subcontracting), shall be null and void and shall constitute a material breach of the Agreement, upon which County may immediately terminate the Agreement.
- 1.2. Procedure for Subcontracting. If KHA desires to subcontract any portion of its performance, obligations, or responsibilities under the Agreement to any subcontractor including to a Preapproved Subcontractor, KHA shall adhere to the following procedures.
  - 1.2.1. KHA shall notify County Project Director of its desire to subcontract a portion of the Work, which notice shall include the reason for the proposed subcontract, and a description of the Work to be performed under the proposed subcontract.
  - 1.2.2. If the proposed Work is to be performed by a Preapproved Subcontractor, the identity of such subcontractor and why such subcontractor was selected.
  - 1.2.3. A certificate of insurance from the proposed subcontractor which establishes that the subcontractor maintains all the programs of insurance required by the Agreement, or required by Exhibit H (Sample Subcontract) if the proposed subcontractor is not a Preapproved Subcontractor.
  - 1.2.4. If the proposed Work is to be performed by a subcontractor other than a Preapproved Subcontractor, then in addition to the foregoing, KHA shall provide:
    - (i) a draft copy of the proposed subcontract which shall contain, at a minimum, the provisions set forth in Exhibit H (Sample Subcontract). The provisions of Exhibit H (Sample Subcontract), or of any approved subcontract agreement between KHA and a third party may be changed or amended, as applicable, only with the prior written approval of County Project Director, which approval shall not be unreasonably withheld; and



- (ii) any other information and/or certifications reasonably requested by County.

County will review KHA's request to subcontract and determine, in its reasonable discretion, whether or not to consent to such request on an individual basis. Without limiting in any way County's prior approval rights, KHA shall deliver to County Project Director a fully executed copy of each subcontract entered into by KHA pursuant to this Paragraph 1.2.4, on or immediately after the effective date of the subcontract but in no event later than the date any Work is performed under the subcontract.

- 1.2.5. KHA shall obtain an executed subcontractor Employee Acknowledgment, Confidentiality & Assignment of Rights (see Exhibit J (KHA's Employee Acknowledgment, Confidentiality & Assignment of Rights)) for each of subcontractor's employees performing Work under the subcontract, including for each Preapproved Subcontractor's employees performing Work under preapproved subcontracts. Such agreements shall be delivered to County Project Director on or immediately after the effective date of the particular subcontract but in no event later than the date any such employee commences performing Work under the subcontract.
- 1.2.6. KHA has identified and entered into subcontracts with certain subcontractors ("Preapproved Subcontractors") listed on Exhibit G (Preapproved Subcontractors), which Preapproved Subcontractors are hereby approved by County.

1.3. KHA Responsibilities.

- 1.3.1. Notwithstanding any County consent to any subcontracting, KHA shall remain responsible for any and all performance required of it under the Agreement, whether performed by KHA or by any subcontractor, including the obligation properly to supervise, coordinate, and perform, all Work required hereunder, and no subcontract shall bind or purport to bind County. Further, County approval of any subcontract shall not be construed to limit in any way KHA's performance, obligations, including KHA's indemnification obligations, or responsibilities, to County.
- 1.3.2. In the event that County consents to any subcontracting, such consent shall be subject to County's right to reject any and all subcontractor personnel providing services under such subcontract.
- 1.3.3. In the event that County consents to any subcontracting, KHA shall cause the subcontractor, on behalf of itself, its successors and administrators, to assume and be bound by and shall be deemed to have assumed and agreed to be bound by each and all of the provisions of the Agreement and any amendment hereto as it relates to or affects the Work performed by subcontractor hereunder.

- 1.3.4. KHA shall be solely liable and responsible for any and all payments and other compensation to all subcontractors and their officers, employees, and agents. County shall have no liability or responsibility whatsoever for any payment or other compensation for any subcontractors or their officers, employees, and agents.

## **2. DISPUTE RESOLUTION PROCEDURE.**

- 2.1. KHA and County agree to act immediately to mutually resolve any disputes that may arise with respect to the Agreement. All such disputes shall be subject to the provisions of this Paragraph 2 (Dispute Resolution Procedure) (such provisions are collectively referred to as the "Dispute Resolution Procedures"). Time is of the essence in the resolution of disputes.
- 2.2. KHA 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, other than payment by County for approved Work, that County, in its discretion, determines should be delayed as a result of such dispute.
- 2.3. If KHA fails to continue without delay its performance hereunder that County, in its discretion, determines should not be delayed as a result of such dispute, then any additional costs which may be incurred by KHA or County as a result of KHA's failure to continue to so perform shall be borne by KHA, and KHA shall make no claim whatsoever against County for such costs. KHA shall promptly reimburse County for such County costs, as determined by County, or County may deduct or offset all such additional costs from any amounts due to KHA from County.
- 2.4. If County fails to continue without delay to perform its responsibilities under the Agreement which County, in its discretion, determines should not be delayed as a result of such dispute, then any additional costs incurred by KHA 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 KHA for such costs. County shall promptly reimburse KHA for all such additional KHA costs subject to the approval of such costs by County.
- 2.5. In the event of any dispute between the parties with respect to the Agreement, KHA and County shall submit the matter to their respective Project Managers for the purpose of endeavoring to resolve such dispute.
- 2.6. If the Project Managers are unable to resolve the dispute within a reasonable time, not to exceed five (5) business days from the date of submission of the dispute, then the matter immediately shall be submitted to the parties' respective Project Directors for further consideration and discussion to attempt to resolve the dispute.
- 2.7. If the Project Directors are unable to resolve the dispute within a reasonable time not to exceed five (5) business days from the date of submission of the dispute, then the matter

shall be immediately submitted to KHA's regional manager and DPW's Deputy Director. These persons shall have five (5) business days to attempt to resolve the dispute.

- 2.8. If KHA's Regional Manager and DPW's Deputy Director are unable to resolve the dispute within a reasonable time not to exceed five (5) business days from the date of submission of the dispute, then the matter shall be immediately submitted to KHA's president and the Director, but not to Director's designee. These persons shall have five (5) business days to attempt to resolve the dispute.
- 2.9. In the event that at these levels, there is not a resolution of the dispute acceptable to both parties, then each party may assert its other rights and remedies provided under the Agreement and its rights and remedies as provided by law.
- 2.10. All disputes utilizing the Dispute Resolution Procedures 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 three (3) levels described in this Paragraph 2 (Dispute Resolution Procedure), 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.
- 2.11. Notwithstanding any other provision of the Agreement, County's right to terminate the Agreement pursuant to Paragraph 3.5 (Injunctive Relief) of this Exhibit, or pursuant to Paragraph 4 (Termination for Insolvency), Paragraph 5 (Termination for Default), Paragraph 6 (Termination for Convenience; Suspension), or Paragraph 7 (Termination for Improper Consideration) of this Exhibit, or any other termination provision hereunder, shall not be subject to the Dispute Resolution Procedures. The preceding sentence is intended only as a clarification of County's rights, and shall not be deemed to impair any claims that KHA may have against County or KHA's rights to assert such claims after any such termination or such injunctive relief has been obtained.

### 3. CONFIDENTIALITY.

- 3.1. General. KHA shall maintain the confidentiality of all records and information, events or circumstances which occur during the course of KHA's performance under the Agreement, in accordance with all applicable federal, state, and local laws, regulations, ordinances, guidelines, and directives relating to confidentiality. In addition, KHA shall not reproduce, distribute, or disclose to any person or entity any information identifying, characterizing, or relating to any risk, threat, vulnerability, weakness, or problem regarding data security or maintenance in County's computer systems, or to any safeguard, countermeasure, or contingency plan, policy or procedure for data security contemplated or implemented by County, without County's prior written consent. KHA shall inform all of its directors, officers, shareholders, employees, and agents providing services hereunder of the confidentiality provisions of the Agreement. KHA shall provide to County an executed KHA's Employee Acknowledgment, Confidentiality & Assignment of Rights (Exhibit J to the Agreement) for each of the KHA Key Personnel and each of its employees performing on-site Work under the Agreement.

Notwithstanding anything herein to the contrary, KHA acknowledges and agrees that it is responsible for any breach of the obligations of confidentiality set forth herein by any person or entity to whom KHA discloses such Confidential Information.

3.2. Disclosure of Information.

3.2.1. In the performance of this Agreement or in contemplation thereof, the parties and their respective employees and agents may have access to private or Confidential Information and trade secrets owned or controlled by the other party and such information may contain proprietary details and disclosures. All information and data shall be plainly and prominently marked with restrictive legends identifying such information and data as proprietary or confidential by either party (“Confidential Information”).

3.2.2. With respect to any Confidential Information disclosed by one party to the other, and without limiting Paragraph 3.3 (Limitation of County Obligations) of this Exhibit in respect of County’s obligations, the receiving party shall: (1) not use any such records or information for any purpose whatsoever other than carrying out the express terms of the Agreement; (2) promptly transmit to the other party all requests for disclosure of any such records or information; (3) not disclose, except as otherwise specifically permitted by the Agreement, any such records or information to any person or organization other than the party without that party’s prior written authorization that the records are, or information is, releasable; and (4) at the expiration or termination of the Agreement, if KHA is the receiving party, return all such records and information to the party which generated it or if County is the receiving party, maintain such records and information according to the written procedures sent to County for this purpose.

3.2.3. Without limiting the generality of Paragraph 3.2.1 of this Exhibit, in the event KHA receives any court or administrative agency order, service of process, or request by any person or entity (other than KHA’s professionals) for disclosure of any such details, KHA shall immediately notify County Project Director. Thereafter, KHA shall comply with such order, process or request only to the extent required by applicable law. Notwithstanding the preceding sentence, to the extent permitted by law, KHA shall delay such compliance and cooperate with County to obtain relief from such obligations to disclose until County shall have been given a reasonable opportunity to obtain such relief.

3.3. Limitation of County Obligations. Notwithstanding any other provision of this Agreement, including Paragraph 3.2.1, County shall not be obligated in any way under this Agreement for:

3.3.1. Any of KHA’s Confidential Information not plainly and prominently marked with restrictive legends; and

- 3.3.2. Any disclosure of Confidential Information which County is required to make under the California Public Records Act or otherwise by law, provided County shall notify KHA of its decision to disclose any Confidential Information, and shall cooperate reasonably, at KHA's expense, with any effort to secure confidential treatment of such material, provided, further, that such cooperation does not cause County to be in violation of the California Public Records Act, or any other applicable law or judicial order compelling such disclosure.
  - 3.4. Use of County Name. In recognizing KHA's need to identify its services and related clients to sustain itself, County shall not inhibit KHA and subcontractors from publishing their respective roles under the Agreement within the following conditions:
    - 3.4.1. KHA shall develop all publicity material in a professional manner.
    - 3.4.2. During the Term, KHA shall not publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of County without the prior written consent of County Project Director, which shall not be unreasonably withheld or delayed.
    - 3.4.3. KHA may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded the Agreement with County, provided that the requirements of this Paragraph 3.3 (Use of County Name) shall apply.
    - 3.4.4. Notwithstanding anything herein to the contrary, County reserves the right to object to any use of County's name and KHA shall cure promptly and prospectively any use of County's name that has been objected to by County.
  - 3.5. Injunctive Relief. KHA acknowledges that a breach by KHA of this Paragraph 3 (Confidentiality) may result in irreparable injury to County that may not be adequately compensated by monetary damages, and that, in addition to County's other rights under the Agreement and at law and in equity, County shall have the right to injunctive relief to enforce the provisions of this Paragraph 3 (Confidentiality).

#### **4. TERMINATION FOR INSOLVENCY.**

- 4.1. County may terminate the Agreement immediately at any time following the occurrence of any of the following:
  - 4.1.1. KHA has ceased to pay or has admitted in writing its inability 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 United States Bankruptcy Code and whether or not KHA is insolvent within the meaning of the United States Bankruptcy Code, provided that KHA shall not be deemed insolvent if it has ceased in the normal course of business to pay debts that KHA disputes in good faith;

- 4.1.2. The filing of a voluntary or involuntary petition (which involuntary petition is not dismissed within sixty (60) days) regarding KHA under the United States bankruptcy code;
- 4.1.3. The appointment of a receiver or trustee for KHA; or
- 4.1.4. The execution by KHA of a general assignment for the benefit of creditors other than in the course of arranging financial lines of credit.
- 4.2. The rights and remedies of County provided in this Paragraph 4 (Termination for Insolvency) shall not be exclusive and are in addition to any other rights and remedies provided at law or in equity, or under the Agreement.
- 4.3. KHA agrees that if KHA as a debtor-in-possession, or if a trustee in bankruptcy, rejects the Agreement, County may elect to retain its rights under the Agreement, as provided under section 365(n) of the United States Bankruptcy Code (11 USC Section 365(n)). Upon written request by County to KHA or the trustee in bankruptcy, as applicable, KHA or such trustee shall allow County to exercise all of its rights and benefits under the Agreement and the License including the right to continued use of all versions of the System Software, the Integrated System Source Code, and the related Documentation, and shall not interfere with the rights and benefits of County as provided therein. The foregoing shall survive the termination or expiration of the Agreement for any reason whatsoever.

**5. TERMINATION FOR DEFAULT.**

- 5.1. Event of Default. County may, upon notice to KHA, terminate the whole or any part of the Agreement in any one of the following circumstances:
  - 5.1.1. If KHA fails to perform or provide any Task, subtask, Deliverable, service, or other Work within the times specified in the Agreement, or KHA breaches or fails to perform or comply with any of the other provisions of the Agreement, including the applicable notice and cure periods, if any (if no cure period is specified in the Agreement, KHA shall have ten (10) days following notice from County Project Director specifying such breach or failure to cure prior to termination under this Paragraph 5 (Termination for Default), or such longer period as County Project Director may authorize, in writing, but in no event shall the period, as extended by County Project Director, exceed thirty (30) days), provided that nothing in this Paragraph 5.1.1 shall in any way limit or modify any rights of County or obligations of KHA relating to timely performance by KHA as otherwise set forth in the Agreement; or
  - 5.1.2. In respect of Maintenance Services, immediately upon notice to KHA, if on two separate occasions in any single calendar month, or more than four times in the aggregate, during the Term, KHA fails to timely correct any Deficiency pursuant

to the service level schedule set forth in the SOW and Exhibit E (Maintenance & Support).

- 5.2. Deemed Termination for Convenience. If, after County has given notice of termination under the provisions of this Paragraph 5 (Termination for Default), it is determined by County or otherwise that KHA was not in default under the provisions of this Paragraph 5 (Termination for Default), or that the default was excusable or curable under the provisions of this Paragraph 5 (Termination for Default), the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 6 (Termination for Convenience; Suspension) of this Exhibit except that no additional notice shall be required to effect such termination.
- 5.3. Completion of Work. Without limiting any of County's rights and remedies pursuant to the Agreement, upon the occurrence of any event giving rise to County's rights to terminate the Agreement, in whole or in part, pursuant to this Paragraph 5 (Termination for Default), County may, in lieu of such termination, (a) perform, or cause the performance of, any required correction, remedy any Deficiency, replace any noncomplying Work, or take any other such action as may be reasonably required to promptly remedy such default, and (b) debit KHA therefor at County's direct actual cost of outside labor and materials and County's burdened (including salary, employee benefits and reimbursement policies) rates for labor. Such debit shall be made against any amounts owed by County to KHA under the Agreement. In the event County elects to proceed under this Paragraph 5.3 (Completion of Work), any Work created, modified, or repaired by or at the direction of County (including software) shall be deemed Work under the Agreement, and KHA's obligations in respect of Maintenance Services shall extend to such Work as if such Work had been prepared and delivered to County by KHA. County shall provide KHA such documentation in County's possession or control as reasonably requested by KHA as is necessary for KHA to provide Maintenance Services in respect of such Work.

## **6. TERMINATION FOR CONVENIENCE; SUSPENSION.**

- 6.1. Termination for Convenience. The Agreement may be terminated, in whole or in part from time to time, by County in its sole discretion for whatever reason. Termination of Work hereunder shall be effected by delivery to KHA of a notice of termination specifying the extent to which performance of Work is terminated and the date upon which such termination become effective. The date upon which such termination becomes effective shall be no less than thirty (30) days after notice.
- 6.2. Nothing in this Paragraph 6 (Termination for Convenience; Suspension) is deemed to prejudice any right of KHA to make a claim against County in accordance with this Agreement and applicable law and County procedures for payment for Work performed through the effective date of termination. KHA, however, acknowledges that the rights and remedies set forth in this Paragraph 6.2 shall be the only remedy available to KHA in the event of a termination pursuant to this Paragraph 6 (Termination for Convenience; Suspension) by County.

- 6.3. Suspension. County, at its convenience, and without further liability except as herein specified, may suspend KHA's performance under this Agreement, in whole or in part, by written notice personally delivered to KHA specifying the effective date and extent of the suspension.
- 6.3.1. KHA shall immediately discontinue all services unless otherwise indicated by Director.
- 6.3.2. Upon request of Director, KHA shall surrender and deliver to Director within seven (7) days from receipt of said request, all requested drawings, designs, specifications, notes, data, reports, estimates, summaries, or other information relative to the Integrated System as may have been accumulated by KHA, whether complete or in process, for which an invoice has been approved by County pursuant to Paragraph 10.1 (Approval of Invoices) of the base document or for which an agreement for partial payment has been negotiated. Unless otherwise specified by County, County's License rights shall continue for the duration of any period of suspension.
- 6.3.3. In the event the entire Agreement is suspended for longer than three (3) months, County shall pay KHA demobilization expenses. Demobilization expenses are expenses directly attributable to temporarily suspending the work in progress, including the reasonable and actual cost of suspending any commitments for services not yet complete. County shall not be liable for demobilization expenses if only a portion of the Agreement is suspended.
- 6.3.4. In the event the entire Agreement is suspended for longer than three (3) months and KHA is directed to remobilize within one calendar year of the effective date of the suspension, County shall pay reasonable and actual remobilization expenses directly attributable to restarting services hereunder and, at KHA's option, KHA and County shall renegotiate KHA's fees for services remaining under this Agreement. If no agreement as to expenses and fees can be reached, this Agreement may be terminated for the County's convenience.
- 6.3.5. In the event the entire Agreement is suspended and the period of suspension exceeds one (1) calendar year, this Agreement may be deemed terminated for the convenience of County at the option of either party, upon written notice to the other party.
- 6.4. No Prejudice; Sole Remedy. Nothing in this Paragraph 6 (Termination for Convenience; Suspension) is deemed to prejudice any right of KHA to make a claim against County in accordance with this Agreement and applicable law and County procedures for payment for Work performed through the effective date of suspension or termination. KHA, however, acknowledges that the rights and remedies set forth in this Paragraph 6.4 shall be the only remedy available to KHA in the event of a suspension or termination pursuant to this Paragraph 6 (Termination for Convenience; Suspension) by County.



**7. TERMINATION FOR IMPROPER CONSIDERATION.**

- 7.1. County may, upon notice to KHA, immediately terminate the right of KHA to proceed under the Agreement if it is found that consideration, in any form, was offered or given by KHA, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to KHA's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against KHA as it could pursue in the event of default by KHA.
- 7.2. KHA shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to County manager charged with the supervision of the employee or to County Auditor-Controller's employee fraud hotline at (213) 974-0914 or (800) 544-6861.
- 7.3. Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

**8. TERMINATION FOR GRATUITIES.** County may, by notice to KHA, terminate the right of KHA to proceed under the Agreement upon one (1) calendar day's notice, if it is found that gratuities in the form of entertainment, gifts, or otherwise were offered or given by KHA, or any agent or representative of KHA, to any officer, employee, or agent of County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such contract. In the event of such termination, County shall be entitled to pursue the same remedies against KHA as it could pursue in the event of default by KHA.

**9. EFFECT OF TERMINATION.**

- 9.1. Remedies. In the event that County terminates the Agreement in whole or in part as provided in Paragraph 4 (Termination for Insolvency), Paragraph 5 (Termination for Default), Paragraph 6 (Termination for Convenience; Suspension), or Paragraph 7 (Termination for Improper Consideration) of this Exhibit, then:
  - 9.1.1. KHA shall (i) stop performing Work under the Agreement on the date and to the extent specified in such notice, (ii) promptly transfer and deliver to County copies of all System Software and all other completed Work and Work in process, in a media reasonably requested by County, (iii) complete performance of such part of the Work as shall not have been terminated by such notice;
  - 9.1.2. the License and associated rights thereunder granted to County pursuant to Paragraph 14.2 (License) of the base document shall continue in perpetuity, including County's right to exercise the rights granted to it pursuant to Paragraph 14.2.7 of the base document;

- 9.1.3. unless County has terminated the Agreement pursuant to Paragraph 6 (Termination for Convenience; Suspension) of this Exhibit, County shall have the right to procure, upon such terms and in such a manner as County may determine appropriate, software, services and other Work, similar to those so terminated, and KHA shall be liable to County for, and shall promptly pay to County by cash payment, any and all excess costs incurred by County, as determined by County, to procure and furnish such similar software, services, and other Work;
  - 9.1.4. KHA shall promptly return to County any and all of County's Confidential Information that relates to that portion of the Agreement or Work terminated by County;
  - 9.1.5. KHA shall promptly tender payment to County, and shall continue to tender payment, for any credits to County levied pursuant to Paragraph 10.8 (Credits to County) of the base document, to the extent applicable; and
  - 9.1.6. KHA and County shall continue the performance of the Agreement to the extent not otherwise terminated.
- 9.2. Transition Services. KHA agrees that in the event of any termination of the Agreement, as a result of the breach hereof by either party, or for any other reason, KHA shall fully cooperate with County in the transition by County to a new Integrated System, toward the end that there be no interruption of the Department's day to day operations due to the unavailability of the Integrated System during such transition. KHA agrees that if County terminates the Agreement pursuant to Paragraph 6 (Termination for Convenience; Suspension) of this Exhibit or Paragraph 5.2 (Deemed Termination for Convenience) of this Exhibit, KHA shall perform transition services, and shall invoice County for such transition services determined in accordance with the Hourly Labor Rates specified in Exhibit C (Price and Schedule of Payments) for Additional Services, in accordance with a transition plan to be agreed upon, in advance, by County Project Director and KHA Project Director. KHA further agrees that in the event County terminates the Agreement for any other breach by KHA, KHA shall perform transition services at its own expense, provided that KHA shall not be required to incur direct expenses in excess of an amount equal to Maintenance Fees for six (6) months. In connection with the provision of any transition services pursuant to this Paragraph 9.2 (Transition Services), KHA shall provide to County Project Director, on request by County Project Director, documentation that reasonably details the source and amount of the expenses KHA purports to have incurred in the provision of such transition services.
- 9.3. Remedies Not Exclusive. The rights and remedies of County set forth in this Paragraph 9 (Effect of Termination) are not exclusive of any other rights and remedies available to County at law or in equity, or under the Agreement.

**10. WARRANTY AGAINST CONTINGENT FEES.**

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

**11. AUTHORIZATION WARRANTY.** KHA hereby represents and warrants that the person executing the Agreement for KHA is an authorized agent who has actual authority to bind KHA to each and every term, condition, and obligation of the Agreement and that all requirements of KHA have been fulfilled to provide such actual authority.

**12. FURTHER WARRANTIES.** KHA represents, warrants and further covenants and agrees to the following:

- 12.1. KHA represents and warrants that (a) KHA has the full power and authority to grant the License and all other rights granted by the Agreement to County, (b) no consent of any other person or entity is required by KHA to grant such rights other than consents that have been obtained and are in effect, (c) County is entitled to use the System Software without interruption of system use, (d) the Agreement and the System Software licensed or acquired herein, are neither subject to any liens, encumbrances, or pledges nor subordinate to any right or claim of any third party, including KHA's creditors, (e) during the Term, KHA shall not subordinate the Agreement or any of its rights hereunder to any third party without the prior written consent of County, and without providing in such subordination instrument for non-disturbance of County's use of the Integrated System, and any part thereof in accordance with the Agreement, and (f) neither the performance of the Agreement by KHA, nor the License to, and use by, County and its users of the Integrated System in accordance with the Agreement will in any way violate any non-disclosure Agreement, nor, to the best of KHA's knowledge, constitute any infringement or other violation of any copyright, trade secret, trademark, service mark, patent, invention, proprietary information, or other rights of any third party.
- 12.2. KHA bears the full risk of loss due to total or partial destruction of all or any part of the System Software acquired from KHA, as applicable, until the Final Acceptance Date.
- 12.3. KHA shall, in the performance of all Work strictly comply with the descriptions and representations (including Deliverable Documentation, performance capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, functions and requirements) as set forth in the SOW.

- 12.4. All Tasks, subtasks, Deliverables, services, and other Work shall be performed in a timely and professional manner by qualified personnel.
- 12.5. All Documentation developed under the Agreement shall be uniform in appearance.
- 12.6. The System Software shall be fully Compatible with and shall fully integrate, perform, and function with the System Hardware and the operating system software that conform to the specifications set forth on Appendix A (System Specifications) to Exhibit B (Statement of Work).
- 12.7. KHA shall not cause any unplanned interruption of the operations of, or accessibility to the Integrated System or any Integrated System component through any device, method or means including the use of any “virus,” “lockup,” “time bomb,” or “key lock,” “worm,” device or program, or disabling code, (collectively referred to as a “Disabling Device”), 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 accessibility of the Integrated System or any Integrated System component by County or any user or which could alter, destroy, or inhibit the use of the Integrated System, any Integrated System component, or the data contained therein. KHA represents, warrants and agrees that it has not purposely placed, nor is it aware of, any Disabling Device on any Integrated System component provided to County under the Agreement, nor shall KHA knowingly permit any subsequently delivered Integrated System component to contain any Disabling Device.
- 12.8. KHA shall support all System Software components licensed to County hereunder for the Term.
- 12.9. KHA shall assign to County to the fullest extent permitted by law or by Agreement and shall otherwise ensure that the benefits of any applicable warranty or indemnity offered by any manufacturer of any Third Party Software or any other product or service provided hereunder shall fully extend to and be enjoyed by County.

### **13. INDEMNIFICATION, INSURANCE AND LETTER OF CREDIT.**

- 13.1. Indemnification. KHA shall indemnify, defend, and hold harmless County, its districts administered by County, and their elected and appointed officers, employees, and agents (the “County Indemnitees”) from and against any and all liability, including damages, losses, fees, costs, and expenses (including defense costs and legal, accounting and other expert witness, consulting or professional fees) to the extent caused by KHA’s, any subcontractor’s, or KHA’s or any subcontractor’s agents’, employees’, officers’, directors’, shareholders’ or subcontractors’ negligent or intentionally wrongful acts, errors or omissions, excluding liability to the extent caused by County Indemnitees’ negligent or intentionally wrongful acts, errors or omissions. Any legal defense pursuant to KHA’s indemnification obligations under this Paragraph 13 shall be conducted by KHA and performed by counsel selected by KHA and approved by County in writing, which approval shall not be unreasonably withheld or delayed. KHA shall not, however,

without County's prior written approval, accept any settlement, or enter a plea of guilty or *nolo contendere*, to any charge or claim that results in other than a monetary judgment against County Indemnitees, which monetary judgment shall not exceed KHA's ability to pay and which shall be paid by KHA.

- 13.2. Insurance. Without limiting KHA's obligations of indemnification and defense of County Indemnitees, KHA shall provide and maintain at its own expense during the Term, and shall require all of its subcontractors to maintain, the following programs of insurance covering its operations under the Agreement, as specified in this Paragraph 13. Such insurance shall be provided by insurer(s) satisfactory to County's risk manager, and shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County. Certificates or other evidence of coverage satisfactory to County's risk manager, and evidence of such programs satisfactory to County, shall be delivered to:

[County Staff Name]  
County of Los Angeles  
Department of Public Works  
Architectural Engineering Division  
P.O. Box 1460  
Alhambra, CA 91802-1460

on or before the execution of the Agreement by the Board. Such certificates or other evidence shall:

- 13.2.1. specifically identify the Agreement;
- 13.2.2. clearly evidence all coverages required in the Agreement;
- 13.2.3. contain express conditions that County is to be given notice by registered mail (i) at least thirty (30) days prior to any termination of any program of insurance or within ten (10) days in the event of non-payment of premium by KHA, and (ii) with respect to any modification of any program of insurance, at least thirty (30) days in advance or immediately following KHA's first receipt of notice of modification to the types or limits of coverage as outlined in this Agreement in the event KHA receives less than thirty (30) days advance notice of such modification;
- 13.2.4. include copies of the additional insured endorsement to the commercial general liability policy, naming all County Indemnitees as insureds for all activities arising from the Agreement; and
- 13.2.5. identify any deductibles or self-insured retentions for County's approval.

- 13.3. Insurer Financial Ratings. Insurance is to be provided by an insurance company acceptable to County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.
- 13.4. Insurance Coverage Requirements for Subcontractors. Without limiting KHA's indemnification obligations under the Agreement in respect of subcontractors, KHA shall ensure any and all subcontractors performing services under the Agreement meet the insurance requirements of the Agreement either by:
- 13.4.1. KHA providing evidence of insurance covering the activities of subcontractors, or
- 13.4.2. KHA providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.
- 13.5. Liability Insurance. Such insurance shall consist of:
- 13.5.1. General Liability insurance (written on ISO policy form CG 00 01 or its equivalent), with a limit of not less than two million dollars (\$2,000,000) per occurrence. If written with an annual aggregate limit, the above insurance policy limit shall be five (5) times the above required occurrence limit.
- 13.5.2. Professional liability insurance covering liability arising from any error, omission, negligent or wrongful act of KHA, its officers or employees with limits of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate. KHA shall maintain such insurance for a period of five (5) years following the expiration or termination of this Agreement.
- 13.5.3. Intellectual Property insurance covering any actual or alleged infringement of any copyright, patent or other rights of third party, and any actual or alleged trade secret disclosure or misappropriation with limits of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- 13.5.4. Automobile Liability insurance (written on an ISO policy form CA 00 01 or its equivalent) endorsed for all owned, non-owned, and hired vehicles, or coverage for "any auto" with a limit of not less than one million dollars (\$1,000,000) per accident.
- 13.6. Workers' Compensation. Workers' Compensation insurance in an amount and form required by the California Labor Code, or the labor code of any other applicable state, covering all persons performing Work on behalf of KHA and all risks to such persons under the Agreement. Such insurance shall include employer's liability coverage covering accident and disease. In respect of accident, the limit shall be no less than one million dollars (\$1,000,000) per accident, and, in respect of disease, the policy limit shall

be no less than one million dollars (\$1,000,000) and one million dollars (\$1,000,000 for each employee.

13.7. Notification of Incidents, Claims or Suits. KHA shall report to County:

13.7.1. any accident or incident relating to services performed under the Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against KHA or County. Such report shall be made in writing within five (5) business days of occurrence.

13.7.2. any third party claim or lawsuit filed against KHA arising from or related to services performed by KHA under the Agreement. Such report shall be made in writing within five (5) business days of the earlier of service of process of such claim or lawsuit, or KHA otherwise has knowledge of such claim or lawsuit.

13.7.3. any injury to a KHA staff member which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County contract manager. Such report shall be made in writing within five (5) business days of occurrence.

13.7.4. any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to KHA under the terms of the Agreement. Such report shall be made in writing within five (5) business days of occurrence.

13.8. Letter of Credit. KHA agrees to provide County an irrevocable letter of credit, payable to the County upon demand in an amount equal to the Maximum Contract Sum, conditioned upon faithful performance and satisfactory completion of services by KHA, which letter of credit shall comply with minimum criteria and standards established by County. The letter of credit provided pursuant to the preceding sentence shall be in a form satisfactory to County, a copy of which is attached hereto as Exhibit I (Letter of Credit) and shall be maintained by KHA until released by County upon KHA's achieving Final System Acceptance. Such fully executed letter of credit shall be provided by KHA to County prior to KHA commencing the performance of any Work under this Agreement.

13.9. Failure to Procure and Maintain Insurance. Failure on the part of KHA to procure and maintain all the required insurance and letter of credit shall constitute a material breach of the Agreement upon which County may terminate the Agreement pursuant to Paragraph 5 (Termination for Default) of this Exhibit and seek all remedies pursuant to Paragraph 9 (Effect of Termination) of this Exhibit, or alternatively, may purchase such required insurance coverage and debit KHA pursuant to Paragraph 5.3 (Completion of Work) of this Exhibit.

## 14. INTELLECTUAL PROPERTY INDEMNIFICATION.

- 14.1. KHA shall indemnify, defend, and hold harmless County Indemnitees pursuant to Paragraph 13.1 (Indemnification) of this Exhibit, from and against any and all liability (alleged or actual), including damages, losses, costs, fees and other expenses (including defense costs and legal, accounting and other expert, consulting or professional fees), for or by reason of any actual or alleged infringement of any patent, copyright, trademark, or other proprietary rights of any third party, or any actual or alleged trade secret disclosure or misappropriation, arising from or related to the Integrated System, software modifications, or the operation and utilization of the Work under the Agreement (collectively referred to as “Infringement Claims”). KHA shall have no obligation to County under this Paragraph 14 (Patent, Copyright and Trade Secret Indemnification) if any infringement claim is caused by use by County of the Integrated System other than in accordance with the Agreement, the Specifications and other applicable Documentation or to the extent caused by County Indemnitees’ negligent or intentionally wrongful acts, errors or omissions. Any legal defense pursuant to KHA’s indemnification obligations under this Paragraph 14 shall be conducted by KHA and performed by counsel selected by KHA and approved by County in writing, which approval shall not be unreasonably withheld or delayed. KHA shall not, however, without County’s prior written approval, accept any settlement, or enter a plea of guilty or *nolo contendere*, to any charge or claim that results in other than a monetary judgment against County Indemnitees, which monetary judgment shall not exceed KHA’s ability to pay and which shall be paid by KHA.
- 14.2. Without limiting the foregoing, in the event County Project Director becomes aware that ongoing use of the Integrated System, or any part of it, is the subject of any Infringement Claim that might preclude or impair County’s use of the Integrated System or system component (*e.g.*, injunctive relief), or that County’s continued use of the Integrated System or any part of it may subject it to punitive damages or statutory penalties or other costs or expenses, County shall give notice to KHA of such facts. Upon notice of such facts, KHA shall, at no cost to County, either (1) procure the right, by license or otherwise, for County to continue to use the affected portion of the Integrated System, to the same extent of the License, or (2) to the extent KHA is unable to procure such right, replace or modify the affected portion of the Integrated System with product of equivalent quality and performance capabilities, in County’s reasonable determination, to become non-infringing, non-misappropriating and non-disclosing. If KHA fails to complete the remedial acts set forth above within sixty (60) days of the date of the notice from County, or if completion is not possible despite KHA’s commercially reasonable best efforts within such sixty (60) day period, and County has not approved in writing (such approval not to be unreasonably withheld) KHA’s plan of completing such remediation, then, in either instance County shall have the right without limiting any other rights or remedies that County may have under the Agreement or at law or equity, to take such remedial acts it determines to be reasonable to mitigate any impairment of its use of the Integrated System. KHA shall indemnify and hold County harmless for all amounts paid and all-direct and indirect costs associated with such remedial acts.



- 15. NOTICE OF DELAY.** In the event KHA determines at any time that failure, delay or inadequacy of performance of any of County's obligations hereunder may prevent or tend to prevent KHA from completing any of KHA's obligations in a timely manner or may cause or tend to cause KHA to incur additional or unanticipated costs or expenses, KHA shall promptly following such determination (and without limiting KHA's obligation of prompt notification, in any event within five (5) days following such determination), notify County Project Director in writing, which notice shall specify in reasonable detail: (a) any alleged failure, delay or inadequacy of performance by County and (b) to the best knowledge of KHA after due inquiry and analysis, the estimated impact of such alleged failure, delay or inadequacy on the performance of KHA's obligations, including any estimated delay and any estimated amount of additional or unanticipated costs or expenses that may be incurred (a "Notice of Delay"). Such Notice of Delay, if timely filed, shall be treated as a request by KHA for a Change Order, or an amendment to the Agreement, as applicable pursuant to Paragraph 6 (Change Notices and Amendments) of the base document. In the event KHA fails to notify County in writing of any alleged failure, delay or inadequacy of performance of any of County's obligations in a timely manner as set forth in this Paragraph 15 (Notice of Delay), KHA shall not be entitled to rely upon such alleged failure, delay or inadequacy of performance for any purpose whatsoever, including as a purported justification for either: (1) claiming that KHA is entitled to receive any additional payments from County hereunder or (2) failing to fulfill any of KHA's obligations in a timely manner. This Paragraph 15 (Notice of Delay) shall not be interpreted or construed as expanding in any manner the financial obligations of County under the Agreement.
- 16. FORCE MAJEURE.** Except with respect to defaults of any subcontractor(s), KHA shall not be liable for any such excess costs, if its failure to perform the Agreement arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by KHA or any of KHA's subcontractors), freight embargoes, or other similar acts 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 KHA. 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 KHA and subcontractor, and without any fault or negligence of either of them, KHA 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 KHA to meet the required performance schedule. KHA agrees to use commercially reasonable best efforts to obtain such goods or services from other sources, and to mitigate the damages and reduce the delay caused by any of the above mentioned *force majeure* events. As used in this Paragraph 16 (Force Majeure), the term "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.
- 17. CONTRACTOR RESPONSIBILITY AND DEBARMENT.** A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Agreement. It is County's policy to conduct business only with responsible contractors.

17.1. KHA is hereby notified that, in accordance with Chapter 2.202 of the Los Angeles County Code, if County acquires information concerning the performance of KHA on this or other contracts which indicates that KHA is not responsible, County may, in

addition to other remedies provided in the Agreement, debar KHA from bidding on County contracts for a specified period of time not to exceed three (3) years, and terminate any or all existing contracts KHA may have with County.

- 17.2. County may debar KHA if the Board finds, in its discretion, that KHA has done any of the following: (a) violated a term of a contract, including the Agreement, with County or a nonprofit corporation created by County, (b) committed an act or omission which negatively reflects on KHA's quality, fitness or capacity to perform a contract with County, any other public entity or a nonprofit corporation created by County, or engaged in a pattern or practice which negatively reflects on same, (c) committed an act or offense which indicated a lack of business integrity or business honesty, or (d) made or submitted a false claim against County or any other public entity.
- 17.3. If there is evidence that KHA may be subject to debarment, the Department will notify KHA in writing of the evidence which is the basis for the proposed debarment and will advise KHA of the scheduled date for a debarment hearing before the Contractor Hearing Board.
- 17.4. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. KHA and/or KHA'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 KHA should be debarred, and, if so, the appropriate length of time of the debarment. KHA and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board.
- 17.5. 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. The Board shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.
- 17.6. These terms shall also apply to subcontractors of County contractors, including KHA.

## **18. COMPLIANCE WITH APPLICABLE LAW.**

- 18.1. KHA's activities hereunder shall comply with all applicable Federal, State, County and local laws, rules, regulations, ordinances and directives, including State and Federal reporting requirements relating to employment reporting for its employees and all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference. Notwithstanding any cure period for noncompliance with this provision as set forth in Paragraph 5 (Termination for Default), KHA shall have fifteen (15) days to correct any noncompliance with Federal, State, County and local rules, regulations, ordinances and directives, following written notice of such noncompliance from County.

18.2. KHA 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, arising from or related to any violation on the part of KHA, its employees, agents or subcontractors of any such laws, rules, regulations, ordinances or directives. Any legal defense pursuant to KHA's indemnification obligations under this Paragraph 18.2 shall be conducted by KHA and performed by counsel selected by KHA and approved by County (which approval shall not be unreasonably withheld) in writing. 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 KHA fails to provide County with a full and adequate defense, as required by law or this Agreement, County shall be entitled to reimbursement for all such costs and expenses.

**19. FAIR LABOR STANDARDS.** KHA shall comply with all applicable provisions of the federal fair labor standards act, and shall indemnify, defend, and hold harmless County, its officers, employees and agents from any and all liability, including damages, losses, wages, overtime pay, liquidated damages, penalties, court costs, fees and other expenses (including attorneys' fees) arising under any wage and hour law, including the federal fair labor standards act for Work performed by KHA's employees.

**20. NONDISCRIMINATION, AFFIRMATIVE ACTION, AND ASSURANCES.** KHA certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally as required by applicable laws and regulations without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, in compliance with all applicable federal and state anti-discrimination laws and regulations.

20.1. KHA shall certify to, and comply with, the provisions of KHA's EEO certification.

20.2. KHA 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, or physical or mental handicap, in compliance with all applicable federal and state anti-discrimination laws and regulations. Such action shall include: 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.

20.3. KHA certifies and agrees that it will deal with its subcontractors, bidders, or vendors as required by applicable laws and regulations without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap.

20.4. KHA certifies and agrees that it, its affiliates, subsidiaries or holding companies, shall comply with all applicable federal and state laws and regulations, including:

20.4.1. Title VII, Civil Rights act of 1964;

- 20.4.2. Section 504, Rehabilitation Act of 1973;
- 20.4.3. Age Discrimination Act of 1975;
- 20.4.4. Title IX, Education Amendments of 1973, as applicable; and
- 20.4.5. Title 43, part 17, code of federal regulations, subparts a & b;

And that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, be unlawfully excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Agreement, or under any project, program, or activity supported by the Agreement.

- 20.5. KHA shall, with reasonable notice and during regular business hours, allow County representatives access to KHA's employment records during regular business hours to verify compliance with the provisions of this Paragraph 20 (Nondiscrimination, Affirmative Action, and Assurances) when so requested by County; provided that County's access to such employment records of KHA shall be limited to access that does not constitute an unlawful invasion of the privacy rights of any such employee. If County finds that any of the provisions of this Paragraph 20 (Nondiscrimination, Affirmative Action, and Assurances) have been violated, such violation shall, at the election of County, constitute a material breach of the Agreement upon which County may immediately terminate the Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of the Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the federal Equal Employment Opportunity Commission that KHA has violated state or federal anti-discrimination laws or regulations shall constitute a finding by County that KHA has violated the anti-discrimination provisions of the Agreement. All determinations of violations made pursuant to this Paragraph 20.5 shall be appealable by KHA in accordance with applicable laws and regulations, and separately pursuant to Paragraph 2 (Dispute Resolution Procedure).
- 20.6. The parties agree that if KHA violates the anti-discrimination provisions of the Agreement, County shall, at its 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 the Agreement.

**21. EMPLOYMENT ELIGIBILITY VERIFICATION.**

- 21.1. KHA 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 the Agreement meet the citizenship or alien status requirements set forth in federal and state statutes and regulations. KHA shall obtain, from all employees performing Work hereunder, all verification and other documentation of employment eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended.

21.2. KHA shall retain all such documentation for the period prescribed by law. KHA shall indemnify, defend, and hold harmless County Indemnitees pursuant to Paragraph 13.1 (Indemnification) of this Exhibit from and against any and all liability (alleged or actual), including damages, losses, fees, costs, and expenses (including defense costs and legal, accounting and other expert witness, consulting or professional fees) arising out of or in connection with any employer sanctions and any other liability which may be assessed against KHA or County 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 hereunder.

**22. HIRING OF EMPLOYEES.** KHA and County agree that, during the Term and for a period of one (1) year thereafter, except with the prior written consent of the other party, neither party shall in any way intentionally induce or persuade any Project Director, Project Manager or other employee, of one party to become an employee or agent of the other party. Notwithstanding the foregoing, County shall be entitled to make offers of employment to employees of KHA necessary or desirable to perform Work described in the Agreement, in the event that: (1) County has the right to terminate the Agreement pursuant to Paragraph 4 (Termination for Insolvency) of this Exhibit, (2) the Agreement is terminated by County due to KHA's default pursuant to Paragraph 5 (Termination for Default) of this Exhibit, (3) without resolution acceptable to both parties, KHA and County have followed the dispute resolution procedure set forth in Paragraph 2 (Dispute Resolution Procedure) of this Exhibit, or (4) KHA either announces the withdrawal of support of, or otherwise no longer provides services County deems essential to, the ongoing support of the Integrated Systems, as applicable.

**23. CONFLICT OF INTEREST.**

23.1. No County employee whose position with County enables such employee to influence the award of the Agreement or any competing Agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by KHA or have any other direct or indirect financial interest in the Agreement. No officer or employee of KHA, who may financially benefit from the performance of Work hereunder, shall in any way participate in County's approval, or ongoing evaluation, of such Work, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such Work.

23.2. KHA shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the Term. KHA warrants that it is not now aware of any facts that do or could create a conflict of interest. If KHA 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 County. Full written disclosure shall include identification of all persons implicated and a complete description of all relevant circumstances.

**24. RESOLICITATION OF BIDS, PROPOSALS, OR INFORMATION.**

24.1. KHA acknowledges that, prior to the expiration or earlier termination of the Agreement, County, in its discretion, may exercise its right to invite bids, request information, or request proposals for the continued provision of the Work and services delivered or contemplated under the Agreement. County shall make the determination to re-solicit bids, request information, or request proposals in accordance with applicable County policies.

24.2. KHA acknowledges that County, in its discretion, may enter into a contract for the future provision of goods and services, based upon the bids, information, or proposals received, with a provider or providers other than KHA. Further, KHA acknowledges that it obtains no greater right to be selected through any future invitation for bids, request for information, or request for proposals by virtue of its present status as KHA.

**25. RESTRICTIONS ON LOBBYING.** KHA and each County lobbyist or County lobbying firm as defined in Los Angeles County Code section 2.160.010, retained by KHA, shall fully comply with County lobbyist ordinance, Los Angeles County Code chapter 2.160. Failure on the part of KHA or any County lobbyist or County lobbying firm retained by KHA to fully comply with County lobbyist ordinance shall constitute a material breach of the Agreement upon which County may immediately terminate or suspend the Agreement.

**26. CONSIDERATION OF GAIN PROGRAM PARTICIPANTS FOR EMPLOYMENT.** Should KHA require additional or replacement personnel after the Effective Date, KHA shall give reasonable consideration for any such employment openings to participants in County's Department of Public Social Services' greater avenues for independence (GAIN) or general relief opportunity for work (GROW) programs who meet KHA's minimum qualifications for the open position. For this purpose, consideration shall mean that KHA will interview qualified candidates. County will refer gain participants by job category to KHA. In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first opportunity.

**27. NONDISCRIMINATION IN SERVICES.** KHA shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age, or physical or mental handicap, in accordance with all applicable requirements of federal and state law. For the purpose of this Paragraph 27 (Nondiscrimination in Services), discrimination in the provision of services may include the following: denying any person any service or benefit or the availability of the facility, providing any service or benefit to any person which is not equivalent or is not provided in an equivalent manner or at an equivalent time to that provided to others; subjecting any person to segregation or separate treatment in any manner related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirements or conditions which persons must meet in order to be provided any service or benefit.

- 28. STAFF PERFORMANCE WHILE UNDER THE INFLUENCE.** Subject to all applicable laws and regulations, KHA shall use reasonable efforts to ensure that no employee will perform services hereunder while under the influence of any alcoholic beverage, medication, narcotic, or other substance, which might reasonably, or have been observed to, impair his/her physical or mental performance.
- 29. KHA PERFORMANCE DURING CIVIL UNREST.** KHA recognizes that County provides services essential to the residents of the communities it serves, and that these services are of particular importance at the time of a riot, insurrection, civil unrest, natural disaster or similar event. Notwithstanding any other provision of this Exhibit or the Agreement, full performance by KHA during any riot, insurrection, civil unrest, natural disaster or similar event is not excused if such performance remains physically possible without related danger to KHA's or subcontractors' employees and suppliers. During any such event in which the health or safety of any of KHA's staff members would be endangered by performing their services on-site, such staff members may perform any or all of their services remotely. Failure to comply with this requirement shall be considered a material breach of this Agreement by KHA, for which County may immediately terminate this Agreement.
- 30. KHA'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM.**
- 30.1. KHA acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through contracts are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.
- 30.2. As required by County's Child Support Compliance Program (Los Angeles County Code Chapter 2.200) and without limiting KHA's duty under this Agreement to comply with all applicable provisions of law, KHA warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653(a)) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or County's Child Support Services Department (hereinafter "CSSD") 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).
- 31. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM.** Failure of KHA to maintain compliance with the requirements set forth in Paragraph 30 (KHA's Warranty of Adherence to County's Child Support Compliance Program) shall constitute a default by KHA under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure to cure such default within ninety (90) days of written notice shall be grounds upon which County may terminate this Agreement pursuant to Paragraph 5 (Termination for Default) and pursue debarment of KHA pursuant to County Code Chapter 2.202.

- 32. KHA'S ACKNOWLEDGMENT OF COUNTY'S COMMITMENT TO CHILD SUPPORT ENFORCEMENT.** KHA acknowledges that County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. KHA understands that it is County's policy to encourage all County contractors to voluntarily post County's "LA's Most Wanted: Delinquent Parents" poster in a prominent position at KHA's place of business. County's CSSD will supply KHA with the poster to be used.
- 33. RECYCLED-CONTENT PAPER.** Consistent with the Board's policy to reduce the amount of solid waste deposited at County landfills, KHA agrees to use recycled-content paper to the maximum extent possible in KHA's provision of Work pursuant to the Agreement.
- 34. COMPLIANCE WITH JURY SERVICE PROGRAM.**
- 34.1. Jury Service Program. This Agreement is subject to the provisions of County's ordinance entitled KHA Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.
- 34.2. Written Employee Jury Service Policy.
- 34.2.1. Unless KHA has demonstrated to County's satisfaction either that KHA is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the Los Angeles County Code) or that KHA qualifies for an exception to the Jury Service Program (Section 2.203.070 of the Los Angeles County Code), KHA shall have and adhere to a written policy that provides that its employees shall receive from KHA, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with KHA or that KHA deduct from the employees' regular pay the fees received for jury service.
- 34.2.2. For purposes of this Paragraph 34, "Contractor" means a person, partnership, corporation or other entity which has a contract with 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 Contractor. "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 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 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for County under this Agreement, the subcontractor shall also be subject to the provisions of this Paragraph 34. The provisions of this Paragraph 34 shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.



34.2.3. If KHA is not required to comply with the Jury Service Program when this Agreement commences, KHA shall have a continuing obligation to review the applicability of its “exception status” from the Jury Service Program, and KHA shall immediately notify County if KHA at any time either comes within the Jury Service Program’s definition of “Contractor” or if KHA no longer qualifies for an exception to the Jury Service Program. In either event, KHA shall immediately implement a written policy consistent with the Jury Service Program. County may also require, at any time during the Term and at its sole discretion, that KHA demonstrate to County’s satisfaction that KHA either continues to remain outside of the Jury Service Program’s definition of “Contractor” and/or that KHA continues to qualify for an exception to the Jury Service Program.

34.2.4. KHA’s violation of this Paragraph 34 of this Exhibit may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole discretion, terminate the Agreement and/or bar KHA from the award of future County contracts for a period of time consistent with the seriousness of the breach.

**35. ACCESS TO COUNTY FACILITIES.** KHA, its employees and agents will be granted access to County facilities, subject to KHA’s prior notification to County Project Director, for the purpose of executing KHA’s obligations hereunder, including for the provision of Maintenance Services. Unless otherwise determined necessary by County Project Director, access to County facilities shall be restricted to normal business hours, 8:00 a.m. until 5:00 p.m., Pacific Time, Monday through Friday, County observed holidays excepted. Access to County facilities outside of normal business hours must be approved in writing in advance by County Project Director, unless exigent circumstances preclude waiting for written approval (*e.g.*, KHA is responding to a problem of Level I Priority (as defined in Exhibit E (Maintenance & Support) or other major Deficiency. KHA shall have no tenancy, or any other property or other rights in County facilities. While present at County facilities, KHA’s personnel shall be accompanied by County personnel at all times, unless this requirement is waived in writing prior to such event by County Project Director.

**36. COUNTY FACILITY OFFICE SPACE.** In order for KHA to perform services hereunder and only for the performance of such services, County may elect, subject to County’s standard administrative and security requirements, to provide KHA with office space and equipment, as determined at the discretion of County Project Director, at County facilities, on a non-exclusive use basis. County shall also provide KHA with reasonable telephone service and network connections in such office space for use only for purposes of the Agreement. County disclaims any and all responsibility for the loss, theft or damage of any property or material left at such County office space by KHA.

**37. DAMAGE TO COUNTY FACILITIES, BUILDINGS, OR GROUNDS.**

37.1. KHA shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings or grounds caused by KHA or employees or agents of KHA. Such

repairs shall be made immediately after KHA has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

37.2. If KHA fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by KHA by cash payment upon demand, or without limitation of all County's other rights and remedies provided at law or equity, or under the Agreement, County may deduct such costs from any amounts due to KHA from County under the Agreement.

**38. PHYSICAL ALTERATIONS.** KHA shall not in any way physically alter or improve any County facility without the prior written approval of the Director, and County's Director of Internal Services Department, in their discretion.

**39. FEDERAL EARNED INCOME TAX CREDIT.** KHA 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 1015.

**40. ASSIGNMENT BY KHA.**

40.1. KHA shall not assign its rights or delegate its duties under the Agreement, 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. For purposes of this Paragraph 40.1, County consent shall require a written amendment to the Agreement, which is formally approved and executed by the parties, including the Board.

40.2. Shareholders, partners, members, or other equity holders of KHA may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of KHA to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Agreement, such disposition is an assignment requiring the prior written consent of County in accordance with Paragraph 40.1 of this Exhibit.

**41. CONTINUOUS SUPPORT OF INTEGRATED SYSTEM.** If KHA assigns or transfers this Agreement to a permitted assignee and subsequent to such assignment, the Integrated System is not supported to at least the same level that KHA supported the Integrated System, as determined by County Project Director (because, for example, KHA's permitted assignee chooses to support other systems in preference to the Integrated System licensed herein), or, absent any assignment or transfer, if County waives KHA's obligation to continue providing Maintenance Services in respect of the System Software under Paragraph 12 (Further Warranties) (if for example, KHA generally is ceasing support of the Integrated System), then in either instance County, at its option and without limiting or altering its License rights or rights to System Software Source Code, County may elect to transfer the License, without cost or penalty, to another similar system ("Replacement System") within KHA's, or KHA's permitted assignee's, if applicable,

system offering. The assignee, by taking benefit (including, without limitation, acceptance of any payment under this Agreement) shall be deemed to have ratified this Paragraph 41 (Continuous Support of Integrated System). All terms and conditions of this Agreement shall continue in full force and effect for the Replacement System. In addition, the following terms and conditions shall apply if County elects to transfer the license to a Replacement System:

- 41.1. Any prepaid Maintenance Services for the System Software shall transfer in full force and effect for the balance of the Replacement System's maintenance and support term (or equivalent service) at no additional cost. If the prepaid moneys are greater than the Replacement System's maintenance and support fee for the same term, the credit balance shall be applied to future maintenance and support fees or returned to County, at County's option;
- 41.2. Any and all modules of the Replacement System or otherwise offered separately, and needed to match the original Integrated System's level of functionality, as determined by County's Project Director, shall be supplied by KHA's permitted assignee without additional cost or penalty, and shall not affect the calculation of any maintenance and support fees;
- 41.3. All County users and support personnel shall receive reasonable training for purposes of learning the Replacement System. Training shall be provided at no additional cost to County or users;
- 41.4. All License terms and conditions shall remain as granted herein with no additional fees imposed on County; and
- 41.5. The definition of Integrated System shall then include the Replacement System.

## **42. INDEPENDENT CONTRACTOR STATUS.**

- 42.1. The Agreement is by and between County and KHA and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and KHA. 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. KHA shall function as, and in all respects is, an independent contractor.
- 42.2. 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 KHA, including any subcontractor personnel engaged directly or indirectly by KHA in connection with KHA's performance under the Agreement.
- 42.3. KHA understands and agrees that all persons performing Work pursuant to the Agreement are, for purposes of Workers' Compensation liability, the sole employees of KHA and not employees of County. County shall have no obligation to furnish, or

liability for, 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 KHA pursuant to the Agreement.

- 42.4. KHA shall provide to County an executed KHA's Employee Acknowledgment, Confidentiality & Assignment of Rights (Exhibit J) for each of its employees performing Work under the Agreement. Such agreements shall be delivered to County Project Director.

### **43. RECORDS AND AUDITS.**

- 43.1. KHA shall maintain accurate and complete financial records of its activities and operations relating to the Agreement, including any termination hereof, in accordance with generally accepted accounting principles. KHA shall also maintain accurate and complete employment and other records relating to its performance of the Agreement. KHA agrees that County, or its authorized representatives, shall, with reasonable notice and during regular business hours, have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records of KHA relating to the Agreement; provided that County's access to such employment records of KHA shall be limited to access that does not constitute an unlawful invasion of the privacy rights of any such employee. Should the examination and audit be performed by a non-County entity or should a non-County entity be requested by County to review information received pursuant to an audit or examination under this Paragraph 43 (Records and Audits), KHA may require the non-County examiner/auditor to execute a nondisclosure agreement prior to any disclosure. The nondisclosure agreement shall limit the non-County entity's use of information received or reviewed in connection with the examination and audit to work performed specifically for the benefit of County. All such material, including all financial records, time cards and other employment records, shall be kept and maintained by KHA and shall be made available to County during the Term and for a period of five (5) years thereafter unless County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by KHA at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then at KHA's option, KHA shall either (a) provide County with access to such material at a mutually agreed upon location inside Los Angeles County, or (b) pay County for travel, per diem, and other costs and expenses incurred by County to examine, audit, excerpt, copy or transcribe such material at such outside location.
- 43.2. If an audit is conducted of KHA specifically regarding the Agreement by any federal or state auditor, then KHA shall file a copy of such audit report with County's Auditor Controller and County Project Director within thirty (30) days of KHA's receipt thereof, unless otherwise provided by applicable federal or state law or under the Agreement.
- 43.3. If, at any time during or after the Term, representatives of County conduct an audit of KHA, as and to the extent permitted hereunder, regarding the Work performed under the Agreement, the results of such audit, including any final determination in respect of an underpayment or overpayment, if any by County under the Agreement, shall be provided

in writing to KHA. KHA shall have thirty (30) days to review the findings contained in such audit and notify County of any objection to the same. Such notice must include, in reasonable detail, the basis for KHA's objection and any supporting documentation and analysis for KHA's objection. If the parties cannot agree, within fifteen (15) days of receipt of KHA's objection to the findings contained in County's audit, on the amount of underpayment or overpayment, if any, by County to KHA hereunder, then either party may submit such matter to the Dispute Resolution Procedure, provided such matter shall be submitted initially, directly to County Project Director and KHA Project Director. If KHA fails to notify County of any objection it has to the findings of County's audit within the thirty (30) day period set forth above, KHA waives any right to object to the findings of such audit, including any determination of overpayment by County. If such audit, whether initially following a waiver by KHA of its right of objection or upon final determination pursuant to the Dispute Resolution Procedure, finds that County's dollar liability for any such Work is less than payments made by County to KHA, then the difference, together with County's reasonable costs of audit, shall be either repaid by KHA to County by cash payment upon demand or, at the discretion of County Project Director, deducted from any amounts due to KHA from County. If such audit finds that County's dollar liability for such Work is more than the payments made by County to KHA, then the difference shall be paid to KHA by County, but in no event shall County's payments to KHA exceed the Maximum Contract Sum.

- 44. LICENSES, PERMITS, REGISTRATIONS, ACCREDITATION, AND CERTIFICATES.** KHA shall obtain and maintain in effect during the Term all licenses, permits, registrations, accreditation, and certificates required by all federal, state, and local laws, ordinances, rules, and regulations, which are applicable to KHA's services under the Agreement. KHA shall further ensure that all of its officers, employees, agents, and subcontractors who perform services hereunder, shall obtain and maintain in effect during the Term all licenses, permits, registrations, accreditation, and certificates which are applicable to their performance hereunder. Upon request by County, a copy of each such license, permit, registration, accreditation, and certificate required by all applicable federal, state, and local laws, ordinances, rules, regulations, guidelines, and directives shall be provided to County in duplicate.
- 45. NEW TECHNOLOGY.** Without limiting KHA's obligation to provide County Updates in consideration of the Maintenance Fee, KHA and County acknowledge the probability that the technology of the System Software provided under the Agreement will change and improve during the Term. County desires the flexibility to incorporate into the Integrated System any new technologies, as they may become available. Accordingly, KHA Project Manager shall, promptly upon discovery and on a continuing basis, apprise County Project Director of all new technologies, methodologies, and techniques, other than Updates, that KHA considers being applicable to the Integrated System. Specifically, upon County's request, KHA shall provide, in writing, a description of such new technologies, methodologies and techniques, and shall indicate the advantages and disadvantages of incorporating the same into the Integrated System, and provide an estimate of the impact such incorporation will have on the performance, scheduling, and price of the Integrated System. County, at its discretion, may request that the Agreement be amended to incorporate the new technologies, methodologies and techniques into

the Integrated System pursuant to the provisions of Paragraph 6 (Change Notices and Amendments) of the base document.

46. **NO THIRD PARTY BENEFICIARIES.** Notwithstanding any other provision of the Agreement, KHA and County do not in any way intend that any person or entity shall acquire any rights as a third party beneficiary of the Agreement, except that this Paragraph 46 (No Third Party Beneficiaries) shall not be construed to diminish KHA's indemnification obligations hereunder.
47. **MOST FAVORED PUBLIC ENTITY.** If KHA's prices decline, or should KHA, at any time during the Term, provide the same software or services under similar quantity and delivery conditions to the state of California or any county, municipality, public agency or district within California at prices below those set forth in the Agreement, then such lower prices shall be extended immediately to County.
48. **COUNTY'S QUALITY ASSURANCE PLAN.** County or its agent will evaluate KHA's performance under the Agreement on not less than an annual basis. Such evaluation will include assessing KHA's compliance with the terms and performance standards of the Agreement. KHA deficiencies which County determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to the Board. The report will include improvement and corrective action measures taken by County and KHA. If improvement does not occur consistent with the corrective action measures, County may terminate the Agreement or impose other penalties as specified in the Agreement.
49. **CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST.** Should KHA require personnel in addition to those employed by KHA on the Effective Date to perform the services set forth herein, KHA shall give consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Agreement. For this purpose, consideration shall mean that KHA will interview qualified candidates. Prior to consideration being given by KHA, County will refer such County employees by job category to KHA. The above obligations do not apply to positions filled by: (i) third parties who have subcontracted with KHA to perform the services; or (ii) KHA's current employees.
50. **KHA TO NOTIFY COUNTY WHEN IT HAS REACHED 75% OF TOTAL CONTRACT SUM (UNDER CONTRACT SUM PROVISION).** KHA shall maintain a system of record keeping that will allow KHA to determine when it has incurred seventy-five percent (75%) of the Maximum Contract Sum. Upon occurrence of this event, KHA shall send written notification to:

County of Los Angeles Department of Public Works  
Fiscal Division, 7th Floor  
Accounts Payable Section  
P.O. Box 7508  
Alhambra, CA 91803-7508

with a copy to:

Ms. Jane White  
County of Los Angeles  
Department of Public Works  
Traffic and Lighting Division  
P.O. Box 1460  
Alhambra, CA 91802-1460

- 51. NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION/TERMINATION OF AGREEMENT.** KHA shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by KHA after the expiration or other termination of this Agreement. Should KHA 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 or termination of this Agreement shall not constitute a waiver of County's right to recover such payment from KHA. This provision shall survive the expiration or other termination of this Agreement.
- 52. SAFELY SURRENDERED BABY LAW.** KHA shall notify and provide to its employees residing in or working in the state of California, and shall require each subcontractor performing work under this Agreement to notify and provide to its employees residing in or working in the state of California, information 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 available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.
- 53. BUDGET REDUCTIONS.** In the event that the Board 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 correspondingly for that fiscal year and any subsequent fiscal year services provided by KHA under this Agreement. The County's notice to the KHA regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions, and without limiting any of County's rights as set forth in this Agreement, including County's right of termination for convenience pursuant to Paragraph 6 (Termination for Convenience; Suspension) of this Exhibit, County and KHA shall negotiate a mutually agreed upon reduction in Work remaining to be performed by KHA pursuant to the SOW that corresponds with the reduction in County's payment obligation. KHA shall otherwise continue to perform all of its obligations set forth in this Agreement.
- 54. WAIVER.** No waiver by County of any breach of any provision of the Agreement shall constitute a waiver of any other breach or of such provision. Failure of County to enforce at any time, or from time to time, any provision of the Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in the Agreement shall not be exclusive and are in addition to any other rights and remedies provided at law or in equity, or under the Agreement.

- 55. GOVERNING LAW, JURISDICTION, AND VENUE.** The Agreement shall be governed by, and construed in accordance with, the substantive and procedural laws of the state of California applicable to Agreements made and to be performed within that state. KHA agrees and consents to the exclusive jurisdiction of the courts of the state of California (except with respect to claims that are subject to exclusive federal subject matter jurisdiction, as to which KHA agrees and consents to the exclusive jurisdiction of the United States District Court of the Central District of California) for all purposes regarding the Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the Central District of the Superior Court for the County of Los Angeles, California.
- 56. SEVERABILITY.** If any provision of the Agreement is adjudged void or invalid for any reason whatsoever, but would be valid if part of the wording thereof were deleted or changed, then such provision shall apply with such modifications as may be necessary to make it valid and effective. In the event that one or more of the provisions of the Agreement is found to be invalid, illegal or unenforceable in any respect, such provision shall be deleted here from and the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, unless the Agreement fails of its essential purpose because of such deletion.
- 57. RIGHTS AND REMEDIES.** The rights and remedies of County provided in any given Paragraph, as well as throughout the Agreement, including throughout this Exhibit, are non-exclusive and cumulative with any and all other rights and remedies under this Agreement, at law, or in equity.
- 58. FACSIMILE.** Except for the parties initial signatures to the Agreement, which must be provided in “original” form, and not by facsimile, County and KHA hereby agree to regard facsimile representations of original signatures of authorized officials of each party, when appearing in appropriate places on change notices or in other correspondence, notices, etc. requiring signatures, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed thereto, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of “original” versions of such documents.
- 59. CAPTIONS AND PARAGRAPH HEADINGS.** Captions and Paragraph headings used in the Agreement are for convenience only and are not a part of the Agreement and shall not be used in construing the Agreement.



**Exhibit B**

**LOS ANGELES COUNTY TRAFFIC  
CONTROL SYSTEM PROJECT**

**Statement of Work**

Prepared by:  
**Traffic and Lighting Division**  
**Department of Public Works**  
**Modifications by KHA**

**September, 2004**

## **PROJECT SCOPE**

### **Project Phases**

This document defines the scope of services for the Los Angeles County Traffic Control System (“TCS”) Project (the “Project”). Capitalized terms used in this Exhibit B (Statement of Work) without definition shall have the meanings given to such terms in the base document of the Traffic Control System Agreement between KHA (Kimley-Horn and Associates, Inc.) and County (the “Agreement”). Work described in this Exhibit B (Statement of Work) will be completed and delivered by KHA to County in accordance with the terms of the Agreement. The following is an outline of the major components of the Project.

- Preliminary Engineering
- Custom Programming Modifications
- Integration to Los Angeles County Traffic Signal Control Program #4 (LACO-4) Firmware
- System Implementation

### **Project Areas**

The initial implementation of the Project will include one or more of the following:

- Intersections in the unincorporated South Bay area;
- Intersections in the unincorporated Hacienda Heights/Rowland Heights area;
- Intersections in the Interstate 210 (I-210) corridor area involving Cities of Arcadia, Azusa, Baldwin Park, Glendora, Monrovia, Pasadena, and San Dimas.

### **Project Overview**

Los Angeles County Department of Public Works (“DPW”), in partnership with the Los Angeles County Metropolitan Transportation Authority (“Metro”), is currently administering a number of regional traffic flow improvement projects throughout the County area. The primary component of these projects is the installation of multi-jurisdictional TCS’s, which will allow monitoring and control of traffic signals across jurisdictional boundaries. Other project elements include the installation of communications and surveillance systems required to support the TCS and the installation of other advanced elements such as closed circuit televisions, advanced traveler information systems, and workstations in each agency. Subregional Traffic Management Centers (“TMC’s”) are also included. These Centers will provide a means for monitoring, data distribution, and information sharing among the affected jurisdictions.

The new TCS for DPW will build upon the commercial-off-the shelf KITS System or the System Software developed and deployed by KHA. This Exhibit B (Statement of Work) details the design and development of custom features to the System Software and installation and field integration for the initial 50 intersections in Los Angeles County.

## **SPECIAL PROJECT PROVISIONS**

### **System Requirements**

- Appendix A (System Specifications) documents the minimum software functionality, hardware, network equipment and peripherals required for the Integrated System to perform optimally. Task 4 (Custom Programming Modifications) of this Exhibit B (Statement of Work) will customize the System Software as described to provide the functionality required by DPW.
- Appendix B (System Requirements Document) documents the minimum user and operational functional requirements or System requirements. Task 4 (Custom Programming Modifications) of this Exhibit B (Statement of Work) will customize the System Software as described to provide the functionality required by DPW. The Integrated System must meet both the system requirements as identified in this Appendix B and the custom requirements as described in Task 4 (Custom Programming Modifications) in this Exhibit B.

### **Project Deliverables**

For each deliverable titled “DRAFT” outlined in the Agreement, KHA shall submit to the County “DRAFT” versions for review and comment. If the first draft submitted to the County is not acceptable to the County, it will be returned to KHA until it is in a form acceptable for preparation of “FINAL” documents.

KHA shall use the standard County software set forth below when preparing deliverables. KHA shall provide deliverables in the appropriate file format (by downloads and/or via e-mail) as follows:

- Microsoft Word – Word Processing
- Microsoft Excel – Spreadsheet
- Microsoft PowerPoint – Presentation Materials
- Microsoft Project – Project Management and Project Plan

## **SCOPE OF SERVICES**

### **Task 1: Project Management**

KHA's Project Manager shall act as the principal contact for the DPW and other involved agencies. KHA's Project Manager will be responsible for the completion of activities associated with the performance of this Project. Additional responsibilities include management of project planning activities and tracking of resources associated with each aspect of the Project. KHA's Project Manager shall oversee and participate in the activities of the Project.

#### ***Task 1.1: Project Coordination***

KHA shall act as a system integrator to coordinate technical design activities with the involved public and private agencies for each system component of the Integrated System. It should be noted that this Task would be billed on a "not to exceed" time and materials basis in accordance with the Hourly Labor Rates shown in Attachment 2 (KHA's Applicable Hourly Rates) to Exhibit C (Schedule of Deliverables and Payments). For the purposes of developing a cost estimate, the number of hours for each coordination effort has been estimated. The following lists the typical technical activities expected of KHA:

1. Coordination with other contractors deploying the KITS TCS for other agencies within Los Angeles County to avoid duplication of effort in design and deployment (up to 80 hours).
2. Participation in peer group meetings with contractors in other traffic forums to help resolve compatibility/integration issues. This will also include assistance in communicating the capabilities and advantages of the Integrated System to the agencies within Los Angeles County (up to 60 hours).
3. Coordination with subcontractor on the development of communications protocol for the LACO-4 firmware and integration of the Integrated System with LACO-4 (up to 120 hours).
4. Coordination with other contractors installing the communications network for the TCS. These meetings will be to ensure that all communications networks installed will be compatible with the Integrated System's functional specifications (up to 80 hours).
5. Coordination with IEN development team (up to 60 hours)

#### ***Task 1.2: Prepare Project Status Reports***

KHA shall prepare and submit written monthly project status reports.

The reports shall include the following information:

- Period covered by the report.
- Overview of the reporting period.
- Tasks, subtasks, Deliverables, goods, services and other Work scheduled for the reporting period which were not completed.
- Tasks, subtasks, Deliverables, goods, services and other Work scheduled for the reporting period which were completed.
- Tasks, subtasks, Deliverables, goods, services and other Work completed in the reporting period which were not scheduled.
- Issues to be resolved.
- Issues resolved.
- Summary of project status as of reporting date.
- Updated Deliverables chart and completion schedule, if necessary.
- Any other information that County may from time to time reasonably requires.

KHA shall also prepare claims, invoices, billings, and other financial information for review and approval by DPW, as required by this Agreement.

***Task 1.3: Purchase 3<sup>rd</sup> Party Software***

County shall purchase 3<sup>rd</sup> party software that is required for the development of the Integrated System.

- Borland C++ Builder 6 Professional
- Turbo Power Orpheus 4
- Korbitec ODBC Express 5.07
- Seagate Crystal Reports 8.5 Developer's Edition
- Robo Help 2002
- T-ExcellentForm Printer 3.2
- Page Gate Paging Software
- MS Windows Server 2003
- MS Window 2000 Professional
- SQL Server 2000
- ESRI ArcGIS 9
- ESRI Map Objects 2.2

**Task 2: Preliminary Engineering**

The System Requirements Document set forth in Appendix B identifies the County's System Requirements. The Document summarizes the functionality of the System and outlines the customizations/modifications to be made to the Baseline Software to meet the County's desired functionality. KHA shall verify the requirements for installing the Integrated System to operate and monitor traffic signals from the DPW's TMC in Alhambra, including any remote workstations to be deployed via Local Area Network (LAN), Virtual Private Network, or Remote Access services.

KHA shall review the existing recommendations and plans for communication facilities in the South Bay area. These recommendations shall specifically include specifications for communication equipment that will be used by the system to communicate with field devices. The product of this review will be the determination as to whether the recommended equipment is adequate to support the system operation.

KHA shall review the functions of the Integrated System, the communications infrastructure required for proper operation and identify any deficiencies in the existing or planned communication infrastructure. KHA shall develop a System Integration Procedures document that describes the interfaces between the central system and enhanced local controller. This document shall contain protocol definitions and timing data parameters included in the AB3418E protocol extensions. In addition, KHA shall develop a Software Functional Specification to document the software functional requirements, which will serve as the basis for the Integrated System to be installed in Los Angeles County.

Deliverables:

- 2.1(a) System Integration Procedures - Draft
- 2.1(b) System Integration Procedures - Final
- 2.2(a) Software Functional Specification - Draft
- 2.2(b) Software Functional Specification - Final
- 2.3(a) Communication Review - Draft
- 2.3(b) Communication Review - Final

**Task 3: Procurement**

Building upon Task 2 (Preliminary Engineering), KHA shall develop a complete equipment list ("Bill of Materials") for full system deployment and submit to DPW for review. DPW will make any changes as necessary to comply with County standards and send the list back to KHA for final review and approval. Upon KHA's approval of the equipment list and all system configurations, DPW will be responsible for procuring system components, including supporting third party software referenced in Task 1.3 above, system hardware, network equipment, and peripherals. KHA will provide DPW with procurement support/coordination in this effort. The County will ship all equipment identified by KHA to KHA's systems laboratory facility. The workstations will be deployed on Windows 2000 and the servers on Windows 2003. The Integrated System will utilize SQL Server 2000 as its central database.

As further described in Paragraph 14 (Ownership; License) of the base document, DPW has purchased a perpetual License to use the Integrated System. Agencies contracted with DPW for traffic engineering and signal maintenance services will have their traffic signals on DPW's traffic control system and connection from DPW's traffic control system to the contracted agencies shall use leased lines connecting to a stand alone local area network ("LAN") set up for the Integrated System by Remote Access Server ("RAS") access. This does not constitute a center-to-center connection, which is not provided under this Agreement. This License fee is payable as Deliverable 3.2, and covers those agencies who have their traffic signals on DPW's traffic control system without requiring a separate runtime license for the benefit of each such agency.

In addition, included as part of the License is the right for agencies within Los Angeles County to acquire separate runtime licenses from KHA for the Integrated System and install individual versions of the Integrated System at no additional cost to County (other than the license fees set forth herein) or to such agency. This portion of the License fee is payable as Deliverable 6.6. Agencies with a separate runtime license will be running the Integrated System on their own equipment and will be required to purchase the necessary hardware, supporting software, installation, integration services, and training with their own funds.

DPW shall receive a perpetual license to use the existing KITS CCTV module. This includes a listing of integrated analog switches that have been used in deployed systems.

Deliverables:

- 3.1(a) Bill of Materials for Central System Equipment - Draft
- 3.1(b) Bill of Materials for Central System Equipment - Final
- 3.2 License to the Integrated System (without incremental license fees for other agencies)
- 3.3 License to the KITS CCTV Module

**Task 4: Custom Programming Modifications to KITS**

All modifications to the System Software will be performed under this Task. The modified System Software must have the ability to support Type 170 Controllers. The modified System Software shall also integrate with the communications protocol to be developed under Task 5 (Integration with LACO-4 Firmware) to support the DPW's controller firmware known as LACO-4. This protocol will be based upon the AB3418E protocol.

Custom software modifications to the KITS System to be completed under this Task include the following:

- LACO-4 Database, UI and Server Support (required for initial installation)
- Multi-jurisdictional security
- Multi-jurisdictional central alert processing
- Alert printing
- Context-sensitive help
- Master Cycle Timer

- Test board display
- Database Server OS Port to Windows 2003

For each modification specified above, KHA shall provide GUI Screen mockups, where applicable. The screens will be designed to be consistent with the current operation of existing KITS screens and the functionality described in Appendix B. KHA shall provide GUI Screen mockups for the custom-generated displays to support the LACO-4 controller type. KHA shall present these modifications to the County during a Critical Design Review (CDR). The County shall provide feedback within 21 calendar days of viewing the GUI. The comments shall be limited to screens designed specifically for the County. Modifications to the existing KITS system other than what is specified in this SOW must be funded by pool dollars. Upon completion of the CDR and acceptance of the screen designs by the County, KHA will complete the software. Subsequent to this approval, further changes to the displays shall not be required, but may be considered if agreed between the County and KHA.

Deliverables:

- 4.1(a) KITS and LACO-4 GUI Screen Mockups – Draft
- 4.1(b) KITS and LACO-4 GUI Screen Mockups – Final
- 4.2 Critical Design Review

**Task 5: Custom Programming Modifications to LACO-4 Firmware (Optional)**

KHA shall not commence Work on this Task 5 (Custom Programming Modifications to LACO-4 Firmware), unless and until County and KHA mutually agree in writing, and subject to Paragraph 5.1.1 of the base document of this Agreement, that KHA, or a subcontractor, as applicable, shall proceed with such Work.

LACO-4 is the latest in a series of traffic signal control programs written for the County of Los Angeles. It is preceded by four other programs (LACO-1, LACO-1R, LACO-2, and LACO-3) dating back to the late 1980s. These programs were written in assembly language. LACO-4 is the first 170 program designed from scratch in over a decade. It was created using structured programming techniques. The resulting program is easier to code, test, and debug. It is also much easier to maintain and expand.

Upon mutual agreement between County and KHA to execute this Task, KHA will work with a DPW approved contractor to establish the LACO-4 firmware communications protocol for integration with the Integrated System. KHA will subcontract with this same DPW approved contractor to develop the communications interface.

County shall be solely responsible for testing the operation of the LACO-4 firmware. County, with the assistance of KHA, shall test the communication interface of the firmware.

Deliverables:

- 5.1 LACO-4 AB3418E demonstration



## 5.2 LACO-4 Communication Program and Upgraded LACO-4 Program, including Source Codes, User Documentation and Developer Documentation.

### **Task 6: Integration and System Testing**

As software components are developed, regression testing will be performed to ensure proper functionality within the developed components/modules as well as integrated into the System Software. Custom features will be delivered to the County as they are developed. It is anticipated that several software deliveries will be made. This strategy will allow the County to quickly have a functional system and reduce the overall integration time. Integration of KITS shall be performed in stages. The following sequence of events details the staged implementation of the KITS system.

1. The County will procure designated equipment that will be shipped to KHA's laboratory facility in Phoenix for configuration and software installation. The basis for selecting and procuring this equipment is detailed under Task 3.
2. KHA will configure the equipment and install required 3rd party software. A lab configuration will be created and maintained in KHA's facility to simulate the LACO deployment environment.
3. An Acceptance Test Plan will be generated by KHA and approved by County. This Test Plan will document the criteria for testing, and what resources are required to successfully perform each phase of testing. The Acceptance Test will verify requirements contained in the Software Requirements described in Appendix B.
4. The Acceptance Test Plan will include Response Time standards for transactions and report queries. The Integrated System shall be tested in accordance with a mutually agreed upon Response Time procedure that isolates connectivity latencies to verify that the Response Time standards are met. If the Response Time standards proposed by KHA fail to meet County's reasonable expectations, or if the Integrated System fails to meet the Response Time standards, as agreed upon by County's Project Director, County can reject the Integrated System and require KHA to resolve the hardware and software issues causing unacceptable Response Times, excluding connectivity latencies. After KHA has resolved any such hardware and software issues, it shall resubmit the new proposed Response Time standards to County, or the modified Integrated System, as the case may be, for approval by County's Project Director, in the exercise of County Project Director's reasonable discretion.
5. An installation procedure will be generated by KHA. This will describe the installation order and procedures used to install a KITS client and server. This procedure will include 3<sup>rd</sup> party tools and may reference other supporting 3<sup>rd</sup> party documentation.
6. Upon completion of the modification provided to support LACO4 firmware and the completion of the LACO4 firmware modification to support communication as described in Task 5 all functional aspects of the Integrated System will be validated in the lab environment to demonstrate that the components operate together as expected. Any deficiencies will be identified and addressed. A dry run of the installation procedure and Acceptance Test will be performed on the test environment at KHA's development facility before on-site installation testing. DPW reserves the right to supervise the factory demonstration at KHA's development facility.

7. Upon successful completion of the factory demonstration, KHA will ship the County procured equipment received in Task 3 back to the County's TMC. One workstation and server will remain in KHA's laboratory facility to allow KHA to replicate issues that arise following the factory demonstration. KHA will assist County personnel in installing the equipment and testing the interface functions between the system and LACO4 controller. County personnel will be responsible for developing and entering LACO4 timing and configuration data into the system database. Preliminary testing will utilize controllers installed in the TMC and/or maintenance facility.
8. KHA will assist County personnel with the installation of 16 updated LACO4 intersections by assisting with configuration of these field signals within the Integrated System and by monitoring the operation of the System at the control center. This assistance will include preliminary training on the Integrated System operation of LACO4 signals and graphic configuration within the System. The Acceptance Test Plan will be then performed on these 16 intersections, which is discussed under Task 8. The completion of the acceptance test constitutes "Go Live."
9. KHA will incrementally install updated system software as custom features are developed that support the additional modifications described in Task 4. KHA will assist County personnel in the testing of these new features and monitor the operation of the system. KHA will provide initial training on the operation of the new features.

Software and problem reporting will fall under configuration management following the factory demonstration.

As discussed under Task 3 of this Exhibit B (Statement of Work), the License fee covering agencies within Los Angeles County to acquire separate runtime licenses from KHA for the Integrated System and install individual versions of the Integrated System at no additional cost to County (other than the license fees set forth herein) or to such agency is payable as Deliverable 6.6.

Deliverables:

- 6.1(a) Acceptance Test Plan, including Proposed Response Times - Draft
- 6.1(b) Acceptance Test Plan, including County-approved Response Times - Final
- 6.2(a) Installation Procedure – Draft
- 6.2(b) Installation Procedure – Final
- 6.3 Factory Demonstration
- 6.4 Equipment Installation at the County TMC
- 6.5 System Installation for 16 Intersections
- 6.6 License to the Integrated System for Additional Agencies
- 6.7 40 Hours of Training

**Task 7: Documentation**

KHA will provide existing documentation customized for the Integrated System in the following form:

- **USER’S GUIDE** for KITS – provides an overview description of the system, its components, how they are used or accessed by the operators as well as how to use the GUI’s for all aspects of the system. The **USER’S GUIDE** shall include information on the custom features developed under Task 4 (Custom Programming Modifications).
- **MAINTENANCE GUIDE** for KITS - describes how to configure and maintain the LACO 4 version of KITS Workstations and Servers. This document discusses routine system maintenance, operation with the Windows Service Control Manager and required configuration settings
- **QUICK START GUIDE** for KITS – describes initial configuration and setup of the system. This brief document references the **USER’S GUIDE**, but presents the information in a simple format. The document focuses on data entry, map customization, and initial configuration.

Electronic copies of the final documentation will be provided.

Training will be provided on the Integrated System and focus on how to navigate and utilize the KITS documentation. Training topics include:

- On-line help
- Installing software updates
- Intersection phase configuration
- Naming conventions
- System components

Deliverables:

- 7.1(a) Electronic Copies of the System **USER’S**, **MAINTENANCE** and **QUICK START GUIDE** for KITS – Draft
- 7.1(b) Electronic Copies of the System **USER’S**, **MAINTENANCE** and **QUICK START GUIDE** for KITS – Final
- 7.2 20 Hours of Training

**Task 8: System Acceptance and Configuration**

Upon completion of Task 6, KHA will execute the Acceptance Test using the 16 deployed controllers in the County. KHA will deliver the results of the Initial Acceptance Report to the County after successfully completing the Acceptance Test. At least 90% of the tests must pass to deliver the Initial Acceptance Report. Upon successful completion of all tests, KHA will deliver the Final Acceptance Test Report. Following the successful completion of the Acceptance test, KHA will assist the County to expand the system to 50 intersections. The County, with the support of KHA, shall configure the balance of the 50 intersections by utilizing standard graphics as provided in KITS, adding the intersection to the KITS database, configuring intersection communications, and entering intersection timing data. An abbreviated list of acceptance procedures will be provided and executed for these additional intersections, which will allow the County to determine if intersections are functioning properly. KHA will assist the County as needed in executing these procedures. Communication problems are not the

responsibility of KHA and may not be used as a factor in failing a test. The acceptance test will verify all requirements contained in Appendix B. During system installation and the 12-month support period, KHA shall use a defined process as approved by DPW to track and correct system problems. Following the factory demonstration, all problems will be recorded and tracked using this process. Any problem encountered will be recorded using an approved system problem report (“PR”) form.

When a PR is written, it will be emailed to a unique address created solely for the support of the Integrated System. KHA shall provide the County with an updated file monthly. The PR shall be assigned an initial priority of A to D based on the following conditions:

- Priority A (Critical) – Problems that cause the system or a component/application of the system to halt processing and impacts the County's normal business operations.
- Priority B (Moderate) – Problems that prohibit required functionality but a reasonable “work-around” is available to proceed and such error or malfunction does not substantially impair County's normal business operations.
- Priority C (Inconvenience) – Problems that are inconvenient or an annoyance but does not affect functionality.
- Priority D (Suggestion) – Changes that may improve or enhance user functionality but are outside the scope of required work.

Training will be provided to the County on the operation and maintenance of KITS. Topics include:

- Map customization
- Multi-jurisdictional security
- Report generation
- System events

Deliverables:

- 8.1(a) Acceptance Test Report – Initial
- 8.1(b) Acceptance Test Report – Final
- 8.2 Addition of 50 Intersections
- 8.3 20 Hours of Training

**Task 9: Evaluation Test Period**

After completion of Task 7 (System Installation) and acceptance testing of Task 8, an on-site trial period of two (2) thirty (30) calendar days is required to evaluate the performance and reliability of the Integrated System. If DPW determines in good faith that the equipment fails to function as required in the Agreement, including that the Integrated System fails to satisfy the County approved Response Time standards, the Integrated System may be rejected. Deficiency of the Integrated System will be measured against the following Priority Levels:

- Level I Priority - An error or malfunction, including a Deficiency, that causes the System Software or a component or application of the System Software to halt processing, and for which no reasonable workaround, other than a workaround developed by KHA under Paragraph II.B.3.a of Exhibit E (Maintenance and Support) of the Agreement, is available.
- Level II Priority - An error or malfunction, including a Deficiency, that prohibits required functionality, but at the time of the error or malfunction, a reasonable workaround is available to proceed, and such workaround does not substantially impair County's normal business operations.
- Level III Priority - An error or malfunction, including a Deficiency, which is inconvenient or an annoyance but does not affect functionality.

Final acceptance of the Integrated System will be granted per the conditions set forth in Paragraph 5.2.2 of the Agreement.

KHA shall achieve "Final Acceptance" upon successful completion of all the following: (a) its completion and delivery of all Tasks, subtasks, Deliverables, services and testing protocols associated with the Final Acceptance requirements set forth in the Statement of Work; (b) successful implementation of all functions and features of all phases and successful achievement of all testing protocols has been verified by KHA; (c) County Project Director has provided KHA with written approval, as evidenced by County Project Director's countersignature on all applicable Task/Deliverable Acceptance Certificates, of all such Work; (d) all such Work has been provided, installed, and operates in County's production environment with no Deficiencies more severe than a Level III Priority, as defined in Exhibit E (Maintenance & Support), for no less than two (2) thirty (30) day periods following the completion of Task 8 (System Acceptance) of Exhibit B (Statement of Work); and (e) County Project Director has provided KHA with written approval, as evidenced by County Project Director's countersignature on the applicable Task/Deliverable Acceptance Certificate, of KHA's achievement of Final Acceptance (the date of satisfaction of the foregoing, including written approval thereof shall be referred to as the "Final Acceptance Date").

The County will issue a letter to KHA indicating Final Acceptance. Task 9.1 will be billed on a "not to exceed" time and materials basis in accordance with the Hourly Labor Rates shown in Attachment 2 (KHA's Applicable Hourly Rates) to Exhibit C (Schedule of Deliverables and Payments). Effort that occurs following completion of Task 8 through the receipt of a letter indicating Final Acceptance will be billed to this Task. Labor includes software debugging, configuration management, lab synchronization, accounting, invoice processing, internal project management, and travel time. Materials will include travel, allocation and other direct expenses.

Task 9.2 (System Warranty) will begin and be invoiced upon the receipt of Final Acceptance letter by KHA. System Maintenance will begin the first calendar day following the expiration of the Warranty Period.

Deliverables:

- 9.1 Final Acceptance
- 9.2 System Warranty

### **Task 10: Training**

The training in deliverable 10.2 will be a comprehensive, hands-on review of all previous training sessions. In addition, the County may request additional topics that were not previously covered. The following topics will be discussed:

- Operation and Management of the Integrated System
- Overview of the KITS System and Los Angeles County Custom Features
- Operations and System Maintenance
- Security
- Configuration and Customization
- Advanced Functionality

A training schedule will be delivered 2 weeks prior to comprehensive training session that will detail the date and time for each topic. The County can provide input that will help determine the amount of time that is spent on each topic.

#### Deliverables:

- 10.1 Electronic Copies of Training Documentation (syllabus, manuals, visual presentation materials)
- 10.2 40 Hours of Hands-on Training

# Appendix A

## KITS System Specifications

Revision 1.1  
Date: Aug 2004

1.1 PURPOSE.....	4
1.2 INTENDED AUDIENCE .....	4
<b>2.0 INTRODUCTION .....</b>	<b>4</b>
2.1 WELCOME TO KITS.....	4
2.1.1 KITS Central Components .....	4
2.2 Acronyms/Definitions .....	2
<b>3.0 KITS BASICS.....</b>	<b>5</b>
3.1 SYSTEM OVERVIEW .....	5
3.2 THEORY OF OPERATION.....	5
3.3 SYSTEM ARCHITECTURE.....	6
3.3.1 System Hardware Components .....	6
3.3.2 System Software Components .....	7
3.3.3 Application Software Components .....	8
<b>5.0 TRAFFIC MANAGEMENT FUNCTIONS .....</b>	<b>8</b>
5.1 CONTROL MODES .....	10
5.2 TIMING PLANS .....	11
5.3 SECTION CONFIGURATION .....	12
5.4 INTERSECTION CONTROL REQUIREMENTS .....	13
5.5 EMERGENCY PREEMPTION EQUIPMENT INTERFACE.....	14
5.6. EMERGENCY VEHICLE PREEMPTION .....	14
5.7 SPECIAL FUNCTIONS.....	14
5.8 SYSTEM DETECTION .....	14
5.9 MEASURES OF EFFECTIVENESS .....	15
5.10 AUTOMATED TURNING MOVEMENT COUNT (TMC) DATA COLLECTION .....	16
<b>6.0 COMMUNICATIONS .....</b>	<b>16</b>
6.1 LOCAL AREA NETWORK.....	16
6.2 FIELD COMMUNICATIONS .....	16
<b>7.0 GRAPHIC USER INTERFACE (GUI).....</b>	<b>18</b>
7.1 SYSTEM ACCESS FUNCTIONS AND SECURITY .....	18
7.2 GRAPHIC DISPLAY SYSTEM (GDS).....	19
<b>8.0 KITS REPORTS.....</b>	<b>19</b>
8.1 EVENT LOG .....	20
8.2 LINK HISTORY .....	20
8.3 SYSTEM DETECTORS.....	20
8.4 COUNT DETECTORS .....	21
8.5 COMMUNICATION STATISTICS .....	21
8.6 USER ACTIVITY LOG .....	21
8.7 SCHEDULED REPORTS.....	21
8.8 TOD SCHEDULE REPORT .....	21
8.9 TRAFFIC RESPONSIVE REPORT.....	22
8.10 SPECIAL EVENTS .....	22
8.11 FAILURE STATUS .....	22
8.12 INTERSECTION REPORT.....	22
8.13 MEASURES OF EFFECTIVENESS REPORTS.....	23
8.14 SYSTEM STATUS REPORT.....	23



8.15 PREEMPTION LOG REPORT.....	23
10.0 DATABASE MANAGEMENT .....	23
10.1 TRAFFIC SYSTEM DATABASE.....	24
10.2 LOCAL INTERSECTION CONTROLLER DATABASE.....	24
10.3 SUPPORTING SOFTWARE.....	24
11.0 INTELLIGENT TRANSPORTATION SYSTEM ELEMENTS .....	24
12.0 CCTV and Video Control Subsystem.....	25
12.1 CVCS CONFIGURATION .....	25
12.2 IMAGE ROUTING .....	25
12.3 CONTROL ELEMENTS.....	26
12.3.1 Video Routing Commands .....	27
12.3.2 Camera Control Commands .....	27
12.4 USER INTERFACE .....	27
12.4.1 Camera Control User Interface .....	28
12.4.2 Video Control.....	28

## 1.0 PREFACE

### *1.1 Purpose*

Kimley-Horn Integrated Transportation Systems (KITS) is designed to be extremely user friendly so that its users can become productive in a very short time. This specification has been written to acquaint the reader with the major components of KITS and with the various functions KITS can perform. This document does not discuss how to perform KITS functions. That topic is covered in the Operator Manual.

### *1.2 Intended Audience*

This document is intended for anyone interested in knowing what comprises KITS. This could be new or experienced operators, traffic analysts, signal technicians, programmer/analysts, system engineers, traffic engineers, and traffic engineering division management personnel. This document therefore contains brief descriptions of each of the major hardware, software, and functional components of the system.

## 2.0 INTRODUCTION

### *2.1 Welcome to KITS*

#### 2.1.1 KITS Central Components

KITS is comprised of three major types of central system components: hardware, software and functional. Each is briefly introduced below.

##### **2.1.1.1 Hardware Components**

KITS central hardware components include computers, communication interface equipment, modems, network hubs, modem sharing devices, etc.

##### **2.1.1.2 Software Components**

KITS central software components include three categories of software: computer vendor supplied third-party commercial-of-the-shelf (COTS), and application. Computer vendor software is comprised mainly of the computer

operating system. Without operating system software, computers would be useless. KITS third-party COTS software includes database management software, paging software, maintenance reporting software, report generation software, and map display software. Application software is the software that has been developed specifically to provide the functionality that comprises an advanced transportation management system such as KITS.

### 2.1.1.3 Functional Components

The functional components of KITS are simply the major functions that it performs. Examples of KITS functional components are as follows:

- Automatic Remote Notification (Paging)
- Traffic Management

KITS functional components are the primary focus of this document; therefore, the bulk of this document is devoted to KITS functionality. Hardware and software components are, however, briefly addressed in the KITS Basics section of this document.

## 2.2 Acronyms/Definitions

<b>County</b>	County of Los Angeles, California
<b>Address</b>	The unique number that defines the communications time slice given to a device on a given communications channel in a time-division multiplexing scheme.
<b>Channel</b>	A communications circuit or line
<b>COTS</b>	Commercial-Off-The-Shelf
<b>CRS</b>	Central Receiver Station
<b>CS</b>	Communications Server
<b>C-Through</b>	The software that facilitates control of the video wall via the PICBLOC video wall processor.
<b>GDS</b>	Graphic Display System
<b>GUI</b>	Graphical User Interface
<b>ID</b>	Identification

<b>PICBLOC</b>	Electronic Video Wall Processor
<b>SVGA</b>	Super Video Graphics Adaptor
<b>SYNC</b>	Synchronization
<b>PTZ</b>	Pan, Tilt, Zoom CCTV camera control functions
<b>CCTV</b>	Closed Circuit Television
<b>Failure</b>	The malfunction of a system component or group of components that results in the unavailability or diminished capability of certain system functions.
<b>GIS</b>	Geographic Information System
<b>Incident</b>	An unanticipated short-term disruption of normal traffic flow, such as a collision, breakdown, or maintenance operation.
<b>LAN</b>	Local Area Network
<b>MOE</b>	Measure of Effectiveness
<b>Open Architecture</b>	A system design concept to allow for the future addition of system enhancements with a minimal amount of revisions to the original system's hardware and software.
<b>Operator</b>	A Traffic Engineering staff member with hands-on responsibility for the operation of KITS. Operators report to the System Engineer.
<b>RDBMS</b>	Relational Database Management System
<b>System Engineer</b>	The Traffic Engineering staff member with direct responsibility for the continued administration and operation of KITS.
<b>KITS</b>	Kimley-Horn Integrated Transportation Systems
<b>TBC</b>	Time Based Coordination
<b>TMC</b>	Transportation Management Center or Turning Movement Count
<b>TOD/DOW/WOY</b>	Time-of-Day/Day-of-Week/Week-of-Year

**UPS** Uninterruptible Power Supply

**UTDF** Universal Traffic Data Format

## 3.0 KITS BASICS

### *3.1 System Overview*

The primary goal of KITS is to allow for the efficient and effective control of the area's traffic signals so that speeds are increased, travel times are reduced, and signal-timing-related motorist delay is minimized. Secondly, KITS' goal is to provide the County's staff with the use of advanced technology during the development, implementation, and selection of progressive timing plans for signals throughout the County. A third goal of KITS is to facilitate efficient interaction among the system and its internal (operators, traffic engineers, and traffic technicians) as well as outside users. KITS facilitates transportation engineering and management activities and supports the establishing of interfaces with other systems.

KITS provides all conventional traffic signal system control functions and features as well as the following functional components:

- Video Monitoring System Interface
- Intersection Control Equipment Interface
- Traffic Engineering Databases
- Emergency Preemption System Interface

### *3.2 Theory of Operation*

The system facilitates the supervision of scheduled activities for establishing and enhancing real-time transportation management and traffic control in the County. The system allows multiple categories of users to participate in scheduling events, managing incidents, developing traffic control strategies, and retrieving and evaluating results. The system provides reports that include system performance data. Through the use of COTS software, in addition to standard reports included within KITS, additional reports can be compiled with data available from the relational database. Through the use of Cartegraph and other COTS software, activities such as equipment maintenance, quality assurance, stockroom inventory, and provisions for service billing and cost analyses may be accomplished.

KITS provides the following primary modes of traffic control:

- Manual system elements are controlled manually.
- Time-Of-Day system elements are controlled via an automated time-of-day schedule.

- Traffic Responsive system elements are controlled based on responses to traffic flow data received from sensors on the roadway.

### 3.3 System Architecture

KITS architecture is an open one, from both a hardware and software perspective. It is designed to be readily expandable, easily upgraded from a hardware standpoint, and easy to use and maintain from a software standpoint.

KITS uses COTS software and vendor-neutral standards and protocols including AB3418E.

The system allows operator access, via Local Area Network (LAN) connections, to other personal computers (configured with the proper hardware and software components) within the Traffic Engineering offices and the signal maintenance shop. The system also allows operator access via dial-in connections from the field. Video images from the Video Monitoring System are available at all properly equipped KITS workstations connected to the fiber optic network, including those located at the maintenance shop. See Figure 1.

#### 3.3.1 System Hardware Components

As can be seen in the above-referenced figure, KITS comprises a great deal of hardware. A comprehensive list of equipment from that figure that is the target of this documentation is provided in a companion manual. However, in order to acquaint the reader with KITS basics, the major system hardware components are described below:

- Network file server computers - these computers host the Oracle or SQL Server Database Management software. This is the most important critical piece of hardware that will require regular backups. The archival process will backup all historical data, but full system backups need to be regularly performed on the database
  - Minimum specification:
    - Intel® Xeon™ processor at 2.8GHz/1MB Cache, 800MHz FSB
    - 512MB DDR2 400MHz (2X256MB), Single Ranked DIMMs
    - Redundant Power Supply With Y-CORD and Dual Cords
    - 73GB 10K RPM Ultra 320 SCSI Hard Drive
    - Stand Alone 1500 UPS 120V
- Field network communication server computers - these computers host the field communications software and all other software that must run automatically. There is no set limit of the maximum number of intersections per communication server. Using RS232 communication at 9600 baud,

approximately 500 intersections can be controlled by a single server. There is no limit to the number of communication servers within KITS.

- Minimum specification:
  - Intel® Xeon™ processor at 2.8GHz/1MB Cache, 800MHz FSB
  - 512MB DDR2 400MHz (2X256MB), Single Ranked DIMMs
  - Redundant Power Supply With Y-CORD and Dual Cords
  - 30GB 10K RPM Ultra 320 SCSI Hard Drive
  - Stand Alone 1500 UPS 120V
  
- Operator Workstations - these computers host the KITS client (operator workstation) software. There is no limit to the number of concurrent client workstations
  - Minimum specification:
    - Intel® Xeon™ Processor 2.80GHz, 1MB L2 Cache
    - 1GB, DDR2 SDRAM Memory, 400MHz, ECC
    - 40GB SATA, 7200 RPM Hard Drive without RAID
    - 64MB Dell™ USB Memory Key
    - Screen Resolution should be set to 1024x768
  
- Field communication interface equipment - this equipment serves as the physical interface between the communications server computers and the fiber optic modems.
  
- Local area network equipment - this equipment creates the KITS local area network.
  - Minimum specification:
    - 100 Base-T Ethernet LAN
  
- Modem sharing equipment - this equipment allows the fiber optic modems to be shared between the communications server computers to allow one of them to be a hot standby to the other. Using AB3418E at 9600 baud approximately 12 intersections can be supported with once per second polling on a single communication channel. Approximately 3 intersections can be supported at 1200 baud. This may vary depending on the turnaround time at each controller.

### 3.3.2 System Software Components

System software is made up of the software components supplied by the equipment vendors. Listed below are the major KITS vendor-supplied software items:

- Microsoft 2000 Server operating system - this is the operating system that provides the environment necessary for computers to operate as servers. It is used on the file servers and the communication servers.



- Microsoft 2000 Workstation operating system - this is the operating system that provides the environment necessary for computers to operate as workstations. It is used on the operator workstations.
- Microsoft Network operating system - this is the operating system that provides the environment necessary for computers to communicate via local and/or wide area network equipment. It is used on all of the computers included in KITS.
- Digi International Digi Board device drivers - these drivers are software programs supplied by Digi to facilitate communicating with other devices via this equipment.

### 3.3.3 Application Software Components

Application software is made up of the software components supplied to provide the specific functions and features required for KITS. These may be off the shelf, developed from scratch, or a combination of the two. Listed below are the major KITS application software items:

- KITS Communication Server software - this software manages all external communications. It also performs all time synchronization, automated scheduling, control and monitoring functions, including alarm and page generation.
- KITS Operator Workstation Client software - this software performs all functions required to support the traffic engineer's, analyst's and technician's activities as well as those of the KITS operator.
- Oracle or SQL Server DBMS File Server software - this off-the-shelf software performs all database management functions of the network file server.
- Crystal Reports software - this off-the-shelf software is used in the production of standing and as ad-hoc reports.

## 5.0 TRAFFIC MANAGEMENT FUNCTIONS

Based on the adopted KITS communications protocol, the central software selects and transmits timing plan numbers every 30 seconds to the controller to maintain the timing defined within the central system. The central software selects and transmits offsets every 30 seconds to the controller to maintain the timing defined within the central system. Therefore, under normal operating conditions, the controller timing is per timing plan parameters dictated by the central computer.

Each timing plan comprises a set of control parameters that define the desired operating mode and signal timing for an intersection. The software permits timing plan control parameters to be uniquely defined for each intersection. This set of control parameters includes the following:

1. Cycle length
2. Splits
3. Offset
4. Force-off points
5. Yield point
6. Special functions

Status Monitoring - The status of each controller is monitored by processing controller status messages. When fault conditions are detected, they are logged in a format that specifies the type, date, and time of the fault. Fault conditions monitored are as follows:

1. Detector Failure
2. Cabinet Door Open
3. Police Panel Control
4. Manual Plan Selected
5. Keyboard Data Entry
6. Cabinet Flash
7. Conflict Flash
8. Cabinet Stop Time
9. Cycle Failure
10. Late Main Street Entry
11. Early Main Street Exit
12. Preemption Status
13. Coordination Failure
14. Local Manual
15. Current plan
16. Overlaps
17. Vehicle Calls
18. Active Phase

When a failure is detected, the failure is recorded and the controller status is changed to failed. If an operator-specified percentage (default sixty per cent) of controllers in a section are failed, the remaining controllers in the section are marked off-line.

The section remains off-line until a threshold percentage (default fifty per cent) of operational controllers is exceeded, as determined through off-line monitoring. The section is then automatically brought back on-line under the currently selected timing plan. If a communication error exists for an operator-specified number of consecutive attempts (default three attempts), the controller is marked failed due to communications.

If a controller has been marked failed due to communications, the system automatically attempts to re-establish communications with it every five minutes.

When the system detects a communications failure, the system signals the operators via an audible alarm with a tone selectable by the user for this failure type. Each type of failure is associated with an audible alarm that has a user-selectable tone. The tone used for each failure type is selected from several available tones. In the default configuration, the tone selected to signal a communications failure is unique. The operator is able to turn the audible alarm associated with each failure type on or off independently of the others.

## *5.1 Control Modes*

The central software allows intersections to be coordinated on a system, section, and intersection basis, under the following control modes selectable manually by the operator or automatically through the system scheduler:

Manual Control Mode - A properly authorized system operator is allowed to manually select timing plans on a system, section, or intersection basis. Manual Control overrides all other modes of plan selection. Manual Control must be terminated manually. When terminated, the system reverts to the mode of operation called for in the Time-of-Day/Day-of-Week/Week-of-Year (TOD/DOW/WOY) schedule.

TOD/DOW/WOY Control Mode - When operating in this mode, the software automatically selects and implements timing plans in accordance with a pre-defined TOD/DOW/WOY schedule. The scheduler includes scheduling functions necessary for holidays. The scheduler includes scheduling functions necessary for special days. The scheduler includes scheduling functions necessary for special weeks.

Traffic Responsive Mode - In this mode of operation, the software selects the timing plan best suited for current traffic conditions as measured by associated system detectors. The selected timing plan will be pre-stored and pre-defined to be eligible for selection traffic responsively. Timing plan parameters can be modified by the operator as required.

The Traffic Responsive Mode is able to run in the background, to select and report but not implement timing plans that would be implemented if the traffic responsive mode were active, while the system operates actively in a different mode, e.g., TOD/DOW/WOY or Manual.

Free Control Mode - In this mode of operation, the system, section, or intersection operates without coordination parameters being applied by the central system. Free operation is initiated via selection and sending of the appropriate timing plan number according to the protocol. Once initiated, free operation continues until the intersection is commanded to another mode of

operation, unless communication with central is lost for a time period equal to or greater than a firmware stored value (default 60 seconds). Upon loss of communication, the controller reverts to its internal schedule.

Flash Mode - The software is capable of commanding any intersection or section to the flash mode of operation. Flash operation is initiated via selection and sending of the appropriate timing plan number according to the protocol. When commanded to flash by the central computer, the local controller remains in flash until commanded to another mode of operation, unless communication with central is lost for a time period equal to or greater than a firmware stored value (default 60 seconds). Upon loss of communication, the controller reverts to its internal schedule.

Incident Detection and Response Mode - The system provides for the implementation of special timing plans and other congestion mitigation measures for special events and incidents through an Incident Response Mode of operation. This mode is designed to operate concurrently with any other control mode.

## *5.2 Timing Plans*

Timing plans are section based and consist of unique combinations of cycle, split, and offset for each intersection currently assigned to a section. Cycle lengths, offsets, splits, force-off points, yield points, and special function definitions are as supported by the Type 170 firmware selected for implementation within the County.

While the scope of a timing plan is a section, timing plan parameters are defined and entered on an intersection basis. Timing plans are stored and maintained as a part of the controller database. Timing plan parameters can be edited, stored in the central database, uploaded from the controllers in the field, and downloaded to the controllers in the field.

The coordination timing parameters define the synchronization phases and phase sequence associated with each timing plan. The coordination parameters include permissive period timing and phase/pedestrian assignments to the permissive periods. The plan definition screen provides cycle, offset, and split information for all timing plans.

Timing plan transition, per County's Type 170 firmware, is accomplished by the firmware according to what has been set in the controller by the operator. There is a Transition Type location in the controller's database that tells the controller to transition using either the short-way or the dwell method. The maximum number

of cycles permitted for transition is also operator set when the database is entered for the intersection in question.

KITS central software broadcasts the time and date to every controller in the system three times per day at user-settable intervals to update the local controller clocks. The system time is based on coordinated universal time broadcasts obtained via interconnected universal time broadcast receiver equipment. In a system such as KITS, second-by-second control of background cycle timing and offset coordination is the responsibility of the local intelligent controller; therefore, background cycle clock functions used as a basis for offset coordination are maintained in the local intelligent controller. Cycle clocks included in the firmware permit cycle lengths ranging from 40 to 255 seconds (in one-second increments).

### *5.3 Section Configuration*

KITS software allows the assignment of intersection controllers and system detectors to any of a minimum of 256 sections. The software provides for flexible section boundaries, changeable by schedule or by operator command.

Within KITS, intersections are assigned to a base section. For any defined TOD period, the user can reassign the intersection to a different section. After the operator makes a change in system scheduling, including reassignment of intersections to sections by TOD period, the operator must force the system to recognize the changes by selecting the system update function.

Prior to implementing the changes, the system verifies the schedule and warns the operator of possible discrepancies. One of the verification tests is to assure that cycle lengths of intersections assigned to the same section are compatible (i.e. the same or a multiple). A warning is presented to the operator if a discrepancy is detected. The operator can choose to disregard the warning and implement the schedule change.

In addition to scheduling the reassignment of intersections to sections, the operator can manually reassign an intersection to a different section. Prior to implementing the command, the system verifies that the cycle length of the intersection is compatible with the cycle length associated with the currently operating section timing plan. A warning is presented to the operator if a discrepancy is detected. The operator can choose to disregard the warning and implement the command. The command remains in effect until cancelled by the operator.

System detectors may be assigned to one, or multiple, sections. The software allows from one (1) intersection to the maximum number (1024) of signalized intersections defined within the system to be assigned to a section.

#### *5.4 Intersection Control Requirements*

Traffic signal coordination timing control functions are accomplished at the local intersection via the Type 170 firmware as implemented within the County. Centralized management of signal coordination is therefore accomplished via distributed control methods compliant with this protocol. The firmware controls up to eight phases of multiple-phase, multiple-ring controllers individually.

Within the local firmware, exclusive pedestrian movements operate as a 9th phase. The "exclusive pedestrian phase" occurs either when crossing the barrier from the main street to the side street, or when crossing the barrier from the side street to the main street.

The system, via the local controller firmware, provides time-based coordination backup in case of the loss of communications. Adjacent intersections, one on-line with the central computer under the time-of-day mode of operation, and one under local time-based coordination backup control (under a timing plan with the same timing parameters), remain in coordination with each other.

Using timing information maintained by the local controller firmware, the software monitors each intersection to ensure that it is operating within the parameters of the timing plan in effect. If it is determined that an intersection is not operating within these parameters, an error message is generated so as to prompt the system operator to investigate the cause of the problem.

The operator, subject to access levels, is provided the on-line option on a per intersection basis to define the number of automatic attempts to make to re-establish control of failed controllers. This number is allowed to range from one to 255 (default three attempts). An option to select infinite attempts allows an unlimited number of attempts. The operator also can disable communication to a controller.

The system allows the changing of the phasing sequence at each intersection by timing plan. The software allows for the uploading of the local controller database including the capability for periodic uploading and comparison with the centrally stored controller database.

The software also allows for the selective downloading of local controller database parameters. When, via a controller extended status response message, a download request is received at central from a technician in the field, all controller parameters from the central system database are downloaded to the local controller. A record of this event is stored in the event log along with the date and time of its occurrence.

### *5.5 Emergency Preemption Equipment Interface*

Preemption Log Data from intersections equipped with compatible 3M Opticom phase selectors is uploaded automatically on a once per day basis at a user-definable time (default 0500). The operator is also able to manually request this preemption log data to be uploaded for a particular intersection.

The log information retrieved is stored in the Oracle database and, upon demand, is reported to the user on an intersection, section or, system basis.

### *5.6. Emergency Vehicle Preemption*

The software is able to support moving emergency vehicle priority during Time-of-Day, Traffic Responsive, Free, or Incident Response modes of operations. Under this software function, the local intersections disregard system control and allow the servicing of preemption calls generated by emergency vehicles. This firmware function is triggered by the receipt of a preempt input to the controller. When the preempt input is dropped, the controller is marked on-line and the controller transitions to the active timing plan called for by the current operations mode.

### *5.7 Special Functions*

Within the local controller, special functions are inputs that may be assigned dynamically on a coordination plan or TOD event basis. The assignments may be defined or changed from central via download commands. They can be invoked from central only by change of timing plan or by change of the TOD event schedule.

### *5.8 System Detection*

KITS is capable of receiving system sensor data from twenty-four (24) system detectors per intersection, with a system-wide maximum of 12,288 system detectors. KITS is capable of processing system detector data generated either by conventional loops or by video detection. The software provides for the automated collection of real-time traffic data, including traffic volumes, occupancy, and speed; and for the creating and updating of a historical database comprising this data.

The software periodically and automatically archives this data to optical media. Previously archived, historical detector data is removed from the on-line database after an operator-settable time period (default thirty (30) days).

Archived detector data is retrievable from the optical media for use with the database or traffic modeling software.

Detector data (both real-time and historic) is used during the traffic responsive mode of operation. Real-time detector data is used for incident detection and for twenty-four (24) hour counts. System detectors are polled on a once-per-minute basis and checked for proper operation. User settable thresholds, changeable by time of day, define the limits of proper operation.

Failed detectors are flagged and data from them is not used in traffic responsive calculations. Previously failed detectors are re-enabled automatically if the detector monitoring software determines they are no longer failed.

When re-enabled, data collection from detectors is automatically restarted. Although no “calibration” parameters are stored at central separately for each detector, a system-wide constant for average vehicle length is stored and used during the computation of speed.

Within KITS, the computation of occupancy is a function of the local controller. It is computed locally and sent back to central as part of the detector data polled on a once-per-minute basis. The “loop length” parameter used for the computation of speed is stored on a detector-by-detector basis and may be used to “calibrate” speed.

### *5.9 Measures of Effectiveness*

The central KITS software maintains the following Measures of Effectiveness (MOEs): Vehicle Miles Traveled, Average Speed, and Pollutant Emission estimates. The pollutant emissions are a function of average speed on the affected roadways. KITS software stores the length of the roadway segment instrumented with detectors. It then determines the volume for the unit of time used for the estimate. The average speed is computed over the same time period. A fleet emission factor table is then used to determine the emission factors for all pollutants using the computed speeds.

Detector data, from which the MOEs are computed, is received at central once per minute. MOEs are computed every fifteen (15) minutes. MOEs are generated by KITS software based on data obtainable via the local controller firmware and reported by operator request or by time-of-day schedule. The software periodically (default every thirty (30) days) archives this MOE data to optical media.



### *5.10 Automated Turning Movement Count (TMC) Data Collection*

The system is capable of automatically collecting and processing turning movement count data. At properly configured and instrumented intersections, this data is generated by video detection, inductive loops, and/or other types of detector technology and accumulated/pre-stored by the local controller firmware. The central computer then, periodically (once per minute), uploads this data from the local controller for processing and storage in the central TMC database.

This automated turning movement count data is stored and periodically (default every thirty (30) days) archived.

## 6.0 COMMUNICATIONS

KITS communication consists of two major elements. At the control center, communication among central computer components is managed by the local area network (LAN).

### *6.1 Local Area Network*

The heart of the system, from an interoffice communications standpoint, is the local area network. This equipment allows multiple operator workstations (limited only by the maximum number of users supported by the network operating system) to be connected to and use KITS concurrently. Not only can they be users of KITS from a transportation management perspective; but also, they can be users of the County's office automation tools (e-mail, scheduling, word processing, and spreadsheet software).

### *6.2 Field Communications*

KITS software communicates between the central software and the Type 170 controllers using the adopted communications protocol. The uploading and downloading of controller parameters are fully supported. The system software provides for polled communications between the central system and the field hardware. All controller and system detector data required to be communicated between the field and central is supported.

KITS communications software supports the transmission of intersection command messages and the receipt of intersection response messages using the communications protocol according to the following scheme:

- Command messages – every 30 seconds
- Controller monitor messages - once per second

- System Detector messages - once per minute
- Preemption monitor ("passthrough") messages - once per day or upon user request
- Upload/Download messages - upon user demand
- Preemption status – once per second

The system software uses communications protocols that are compatible with the field equipment listed below:

- Type 170 Controllers
- Flood Warning System Central Receiver Station
- 3M Opticom Phase Selectors

The system software will also use communications protocols that are compatible with the field equipment listed below:

- Variable Message Sign Controllers
- Traveler Advisory Radio Central-to-Field Communication Devices

The software allows each operator, via the workstation, to monitor multiple Type 170 controllers in real-time. The Type 170 communications software, per the adopted protocol, performs error-checking to preclude the usage/storage of incorrect data.

All messages, both outgoing and incoming, include a checksum that is checked by the receiver to make sure that the content of the message received is valid. In addition, following the receipt of a download command, the local controller responds by sending back to central an acknowledgment. Only upon the determination by central that the local controller received the download correctly, is the okay given by central for the local controller to actually execute the downloaded command. This guards against the local controller's use of invalid and incomplete information.

KITS is able to establish communications with Type 170 controllers through dial-up telephone lines. Throughout the time that the central computer is connected to a local controller, via a dial-up telephone line, the software allows the system to control and/or monitor the controller in the same manner as if it were a directly connected (non-dial-up) controller.

From a hardware perspective, the communications subsystem operates in a fault-tolerant manner via a “collapsed counter-rotating” ring, fiber-optic cable-based communications plant designed and supplied by others. The software system communicates with non-dial-up intersection controllers via fiber-optic transceivers. The software is configured to operate at 9600 baud and can handle up to a maximum of 15 intersections per communications channel.

## 7.0 GRAPHIC USER INTERFACE (GUI)

The system includes a GUI that allows the operator to use a “point-and-click” “windowing” environment. The system uses pop-up, pull-down and “slide-out” menus to provide a GUI that is easy to use and comprehend. The GUI is compatible with high resolution video display (SVGA or better) monitors. The GUI allows users to fully interface with the system per their assigned access privileges.

### *7.1 System Access Functions and Security*

The GUI supports all control, display, and alarm functions included in KITS. All levels of access defined within the system must be assigned and/or changed by a user that has system administrator privileges. User access levels may be changed by a system administrator at any time while the system is on-line and operating.

KITS allows multiple operator workstations and users to interface with the system concurrently. KITS also allows multiple levels of user access to the system simultaneously. The system provides security functions to prevent unauthorized access to the system. Operator/user access levels are assigned on an individual user basis based on Windows login. The GUI display, using a graying-out technique, clearly identifies the functions authorized for and available to a particular operator/user. Specifically, commands not authorized and/or available to the current operator/user are “grayed out”. The administrator can create as many roles as he/she wants. Each role is given a name. Selecting the name and pressing the Edit button brings up the screen used to assign access privileges to each function of the system for the selected role.

A two (2) tier security log is maintained by the system. In the first tier, the system records all operator log-in and log-out actions with a date and time stamp.

In the second tier, the system records each operator request, and the system’s response to that request, during that operator’s session. Entries in the security log are archived to removable optical media by the daily archival process and removed from the hard disk resident database.

The system also allows operator access, via Local Area Network (LAN) connections to other personal computers (configured with the proper hardware and software components) within the Traffic Engineering offices and the signal maintenance shop. The system also allows operator access via dial-in connections from the field.

Video images from the Video Monitoring System are available at all properly equipped KITS workstations connected to the fiber optic network including those located at the maintenance shop.

## *7.2 Graphic Display System (GDS)*

The system includes a GDS for displaying real-time traffic conditions, control strategies, and the status of field devices on operator workstations. Only the image(s) from the two (2) primary operator workstations are eligible for display on the large screen display.

The graphic system uses a County GIS-compatible, County-wide map of the County system area. The zoom capabilities of the GDS are used to activate the display of various areas and/or landmarks of the County as well as the details of individual intersections [three zoom levels - 1) sync phases only, 2) all through phases and 3) all phases].

The intersection graphics display the real-time phasing at the selected intersection, the status of local detectors, and pedestrian movements.

Real-time function layers displayable during any mode of operation include the following:

- Controller indications (coordinated phase only on County-wide display; operator specified phase [three zoom levels -1) sync phases only, 2) all through phases and 3) all phases]
- Indications on area (area extent defined via zoom window displays; and all indications and all other status indicators on the detailed intersection displays);
- Controller status (on-line, communication failure, coordination failure, transition, local manual, police control, flash, cabinet flash, conflict flash and preempt);
- System detectors (on-line, failure reason (if failed), data over-under thresholds);
- System links (measures of effectiveness, over/under thresholds, speed limits and distances between intersections);
- Coordination parameters (pattern cycle length, pattern offset, pattern split, background cycle counter, local cycle counter, actual split);
- Individual Sectional configurations.

The graphics artwork is editable and updateable by the operator.

## 8.0 KITS REPORTS

The reports included in KITS are briefly described in this section. KITS reports may be displayed on operator workstations, printers, or plotters as appropriate for each report. Maintenance and inventory management reports are provided within the Maintenance Reporting System supplied by Cartegraph and, therefore, beyond the scope of this documentation.

### *8.1 Event log*

This report provides the following for each entry in the event log:

Date  
Time  
Location  
Equipment Type  
Event Type  
Event Action

### *8.2 Link History*

This report provides the following for each studied link:

Period Covered  
Detector ID  
On Street Name  
Between First Intersection Node  
Between Second Intersection Node  
Direction of Travel  
Link Length (feet or meters)  
Smooth Volume (vehicles per hour)  
Smooth Occupancy (per cent)  
Smooth Speed (miles or kilometers per hour)

### *8.3 System Detectors*

This report provides the following for each system detector covered by the report:

Date  
Time  
Location  
Detector Identification  
Volume (vehicles per hour)  
Occupancy (per cent)  
Speed (miles or kilometers per hour)

## Operational Status

### *8.4 Count Detectors*

This report provides the following for each count detector covered by the report:

Date  
Time  
Location  
Detector Identification  
Volume (vehicles per hour)  
Occupancy (per cent)  
Speed (miles or kilometers per hour)  
Operational Status

### *8.5 Communication Statistics*

This report covers, on a fifteen-minute basis, the entire system or a specified channel and list, for each intersection, the current communications statistics. Statistics provided are as follows:

Number of communication polls  
Per cent successful  
Number of no responses  
Number of bad responses

### *8.6 User Activity Log*

This report, for the studied operator/user, provides all log-in and log-out actions along with date and time stamp. It also displays a record of each operator request and the system's response to that request.

### *8.7 Scheduled Reports*

Reports may be generated automatically per the system scheduling function. Scheduled reports display either real-time (i.e., updated continuously as their content changes) data or data that is summarized over operator-specified time periods based on operator selection criteria.

### *8.8 TOD Schedule Report*

The Time of Day Schedule report is a system report that lists the TOD plans in operation at that time. There is an entry for each section operating in the TOD mode.

### *8.9 Traffic Responsive Report*

The Traffic Responsive Mode Summary report is a system-wide report that lists the traffic responsive plan in operation at the time the report is requested for each section operating in the traffic responsive mode.

### *8.10 Special Events*

The Special Event Scheduler report is a system-wide report that lists the special event plan in operation at that time. There is an entry for each section operating a special event plan.

### *8.11 Failure Status*

For each failure in existence during the time period covered by the operator's request, this report provides the following information:

- Device Type
- Device ID
- Device Name
- Channel
- Address
- Failure Type
- Date of Failure
- Time of Failure

### *8.12 Intersection Report*

The intersection report is a real-time report that contains the following items of information:

- On-line Status
- Operational Status
- Timing Plan
- Local Timer
- Cycle Length
- Offset
- Phase Splits (Per database, per previous cycle, per current cycle)

## Real-time Phase Returns

### *8.13 Measures of Effectiveness Reports*

Measures of effectiveness parameters are reported on a detector basis in addition to system-wide, as described above in the system Summary Report description.

For each section in the system the following information is provided for the specified time period:

Period Covered

Section ID

Vehicle miles traveled for this section

Average Delay for this section (not available in Phase 1)

Total Delay for this section (not available in Phase 1)

Average Speed for this section

Pollutant emission estimate for this section

### *8.14 System Status Report*

The System Status report continuously scans the system to detect failure conditions. The operator selects the specific failure types of interest from check boxes included on the left of the selection screen. Pressing the screen's update button causes all intersection currently in the selected failure modes to be listed.

### *8.15 Preemption Log Report*

The following log information retrieved is displayed and reported to the user on an intersection, section, or system basis.

Date

Time

Duration

Class/id

Status

Final greens

Final greens time

Maximum intensity

## 10.0 DATABASE MANAGEMENT



KITS utilizes Oracle9 or SQL Server and Cartegraph database management software to provide for the management of the various databases included in the system for the operation of the Traffic Engineering division.

### *10.1 Traffic System Database*

The traffic system database includes all required system configuration data, timing plans, and scheduling data. The traffic system database editor is user-friendly, providing traffic engineering terminology prompts and field labels, and includes data range checking as required. The system provides for on-line and off-line traffic system database generation, editing, and maintenance.

### *10.2 Local Intersection Controller Database*

The system provides for on-line and off-line local controller database generation, editing, and maintenance. The local intersection controller database stored at central includes all local controller parameters that can be downloaded and uploaded from the local controllers.

The local intersection controller database editor is user-friendly, providing traffic engineering terminology prompts and field labels, and includes error and data range checking of timing parameters (numeric fields required for cycle lengths, offsets, and force-off points). Using the Time-Space Diagram routine, timing plan parameters stored in the database are checked for validity. The central software provides for the graphical comparison of uploaded data with data stored in the database at central and the highlighting of data differences.

### *10.3 Supporting Software*

The system is able to inter-operate with SYNCHRO-PRO Version 3.2 (Build 119). Specifically, KITS operator workstation software is able to operate from the same workstation computer as SYNCHRO-PRO. KITS software is able to import timing plan data (stored in UTDF format) from SYNCHRO-PRO. Using the UTDF format, KITS software is able to share data with other signal timing development, support software.

## 11.0 INTELLIGENT TRANSPORTATION SYSTEM ELEMENTS

Intelligent transportation system elements included within KITS include incident detection and incident management (using dynamic message signs and traveler advisory radio) functions. A KITS Internet site is provided through which travelers may obtain up-to-the-minute traffic network information.

## 12.0 CCTV and Video Control Subsystem

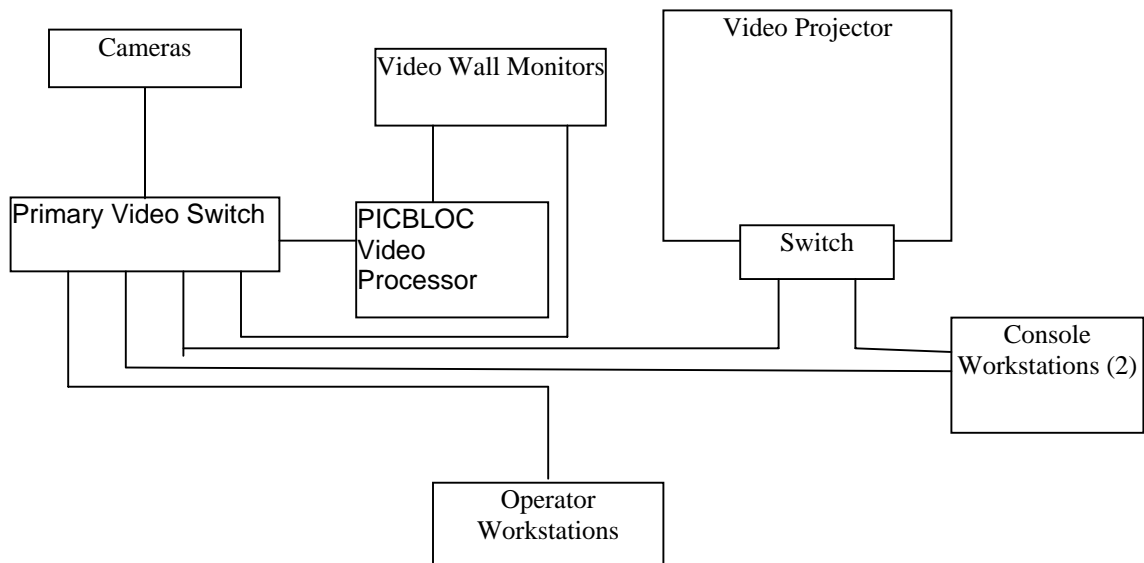
The CCTV and Video Control Subsystem (CVCS) is an integral component of the KITS. The CVCS allows an operator to control pan, tilt, zoom, and focus settings for remote cameras. In addition, an operator can define and recall preset camera positions.

Control of the cameras is provided by the graphical user interface (GUI) of KITS. Video routing capabilities provided by the CVCS include placing camera images on video monitors. Camera images can also be routed to individual operator stations.

Video output from either of two console workstations can be displayed on the video projector. Control of video routing is provided by the GUI of KITS except on the video projector from the two workstations.

### 12.1 CVCS Configuration

The configuration of the functional elements of the CVCS is presented in the following diagram:



### 12.2 Image Routing

Video images to be displayed on the video wall monitors may come from two sources:

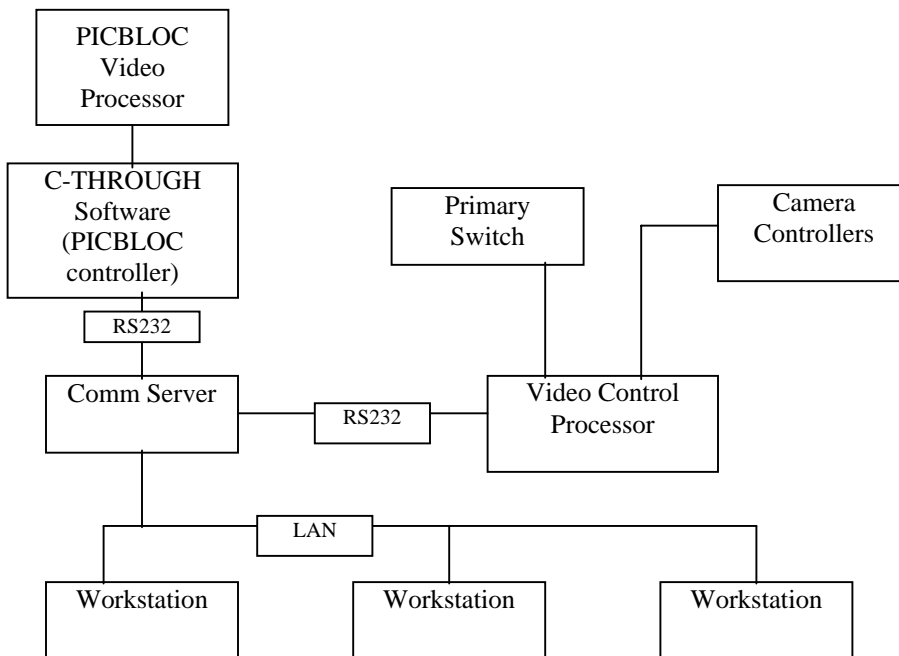
- 1) Camera images may be routed to video wall monitors directly through the primary video switch and,

- 2) Camera images may also be routed from the primary video switch through a PICBLOC video processor so that they may be processed and spread over multiple video wall monitors. Video camera images can also be routed via the primary video switch to operator workstations equipped with video inset cards.

The CVCS interconnects the video outputs from the two console workstations to video inputs to the video projector. This interconnection allows video images generated at either of these two operator workstations to be displayed on the projection screen. Using a remote control unit, the operator selects and determines which of the connected inputs will be displayed on the projector at any point in time.

### 12.3 Control Elements

The control components of the CVCS are presented in the following diagram:



All commands to the CVCS originate at the operator workstations. The commands are sent to the communication server through the LAN. Based on the specific command, a process in the communication server formulates one or more specific commands for the video components. The commands are sent via RS232 connection to either the video control processor or the computer on which the C-THROUGH software operates.

The video control processor accepts commands from the communication server. The video control processor then formats and forwards component-specific

commands to either the camera controllers in the field or the primary video switch. The C-THROUGH software accepts commands from the communication server. Based on the command, the C-THROUGH software configures the video monitors to display images over more than one monitor.

### 12.3.1 Video Routing Commands

Video routing commands included provide the means for placing camera images on the video monitors and operator workstation displays. Issuance of either of these commands causes a change in the input/output configuration of the primary switch. These commands must identify the switch input associated with the camera and the switch output associated with the display device. These commands are formulated and sent to the video central control unit by KITS software.

If a single image is displayed over more than one video monitor, an additional command is sent to the C-THROUGH software to configure the monitor inputs accordingly.

Console workstation displays are routed to the video projector using a remote control unit.

### 12.3.2 Camera Control Commands

Camera control includes pan, tilt, zoom (PTZ), and focus functions, presets, and iris control (manual and auto). An operator first requests control of a specific camera. If the camera is not in use by another user, the system grants the request for access to the camera and in turn blocks access to the camera by other users. The user then can issue PTZ, preset and iris control (manual and auto) commands to the camera.

When finished, the user releases the camera. It then is available to other users. The camera control GUI monitors camera control activity and releases the camera automatically after a predefined time limit during which no control activity is detected. This time limit is only settable by users that have the proper authorization based on their assigned roles.

## 12.4 User Interface

The CCTV user interface is an integral component of KITS. All operator functions of the CVCS are provided through the same menu structure and map display as other KITS functions. The user interface elements associated with each function of the CVCS are described below.

#### 12.4.1 Camera Control User Interface

Camera control requires a definition of existing cameras. The camera definition allows the operator to give the camera a name and associate the name with the unique address of the camera. Any operator workstation equipped with a video inset card attached to the output side of the primary switch can be used to control cameras.

A camera is selected for control by either selecting it from a list of camera names or by selecting a camera icon on the base KITS map. In either case, the camera image is displayed on the workstation screen. From the image display window the operator can request control of the camera.

If control is granted, a window is displayed on the screen containing camera control buttons. Pressing these buttons manipulates the pan, tilt, zoom, and focus functions of the camera. A list of presets is provided on the camera control window. The operator can select a preset from this list. Upon selection, the camera controller moves the camera to the preset position. Existing presets can be removed and/or assigned to a different camera position.

#### 12.4.2 Video Control

The video control interface utilizes a drag-and-drop user interface method. Alternately, the user can select the camera from a text list. The operator can select different configurations of the video monitors that have been predefined within the PICBLOC video processor. These representations visually combine

<b>A</b>	
Acronyms/Definitions.....	2
Application Software Components .....	7
<b>Automated Turning Movement Count (TMC) Data Collection.....</b>	<b>15</b>
<b>Automatic Remote Notification .....</b>	<b>2</b>

<b>C</b>	
Camera Control Commands.....	26
Camera Control User Interface .....	27
CCTV and Video Control Subsystem .....	24
<b>Communication Statistics.....</b>	<b>20</b>
COMMUNICATIONS .....	15
<b>Control Elements .....</b>	<b>25</b>
<b>Control Modes.....</b>	<b>9</b>
<b>Count Detectors.....</b>	<b>20</b>
<b>CVCS Configuration .....</b>	<b>24</b>

<b>D</b>	
DATABASE MANAGEMENT .....	23

<b>E</b>	
<b>Emergency Preemption Equipment Interface .....</b>	<b>13</b>
<b>Emergency Vehicle Preemption.....</b>	<b>13</b>
<b>Event log .....</b>	<b>19</b>

<b>F</b>	
<b>Failure Status .....</b>	<b>21</b>
<b>Field Communications.....</b>	<b>15</b>

<b>G</b>	
<b>Graphic Display System (GDS).....</b>	<b>18</b>
GRAPHIC USER INTERFACE (GUI) .....	17

<b>I</b>	
<b>Image Routing.....</b>	<b>25</b>
INTELLIGENT TRANSPORTATION SYSTEM ELEMENTS.....	24
<b>Intended Audience .....</b>	<b>iv</b>
<b>Intersection Control Requirements.....</b>	<b>12</b>
<b>Intersection Report .....</b>	<b>21</b>
INTRODUCTION .....	iv

<b>K</b>	
KITS BASICS .....	5
KITS Central Components.....	iv
KITS REPORTS .....	19

<b>L</b>	
<b>Link History.....</b>	<b>19</b>
<b>Local Area Network.....</b>	<b>3, 6, 15, 18</b>
<b>Local Intersection Controller Database.....</b>	<b>23</b>

<b>M</b>	
<b>Measures of Effectiveness.....</b>	<b>14, 22</b>
<b>Measures of Effectiveness Reports.....</b>	<b>22</b>

<b>O</b>	
Operator Manual .....	iv

<b>P</b>	
<b>Preemption Log Report .....</b>	<b>22</b>

<b>S</b>	
<b>Scheduled Reports.....</b>	<b>21</b>
<b>Section Configuration .....</b>	<b>11</b>
<b>Special Events .....</b>	<b>21</b>
<b>Special Functions.....</b>	<b>13</b>
<b>Supporting Software .....</b>	<b>23</b>
<b>System Access Function .....</b>	<b>17</b>
<b>System Architecture.....</b>	<b>6</b>
<b>System Detection .....</b>	<b>13</b>
<b>System Detectors .....</b>	<b>20</b>
<b>System Hardware Components .....</b>	<b>6</b>
<b>System Overview .....</b>	<b>5</b>
<b>System Software Components.....</b>	<b>7</b>
<b>System Status Report .....</b>	<b>22</b>

<b>T</b>	
<b>Theory of Operation.....</b>	<b>5</b>
<b>Timing Plans.....</b>	<b>10</b>
<b>TOD Schedule Report.....</b>	<b>21</b>
<b>Traffic Engineering Databases.....</b>	<b>5</b>
TRAFFIC MANAGEMENT FUNCTIONS.....	7
<b>Traffic Responsive Report.....</b>	<b>21</b>
<b>Traffic System Database .....</b>	<b>23</b>

<b>U</b>	
<b>User Activity Log.....</b>	<b>20</b>
<b>User Interface .....</b>	<b>2, 27</b>

<b>V</b>	
Video Control.....	27
Video Routing Commands .....	26

<b>W</b>	
<b>Welcome to KITS .....</b>	<b>iv</b>





## Appendix B – System Requirements

Req. #	Description
1.	The System should be easy to operate and maintain thereby reducing the staffing resources required.
2.	Open hardware and software systems will be used wherever possible.
3.	Fully Actuated operation under coordination will be supported where possible.
4.	The system shall be scaleable to the entire County.
5.	The System shall be capable of synchronizing the time reference clocks of each local TCS with the entire system to enable adjacent intersections in different jurisdictions to be coordinated.
6.	The System shall have a multijurisdictional capability, allowing for two or more jurisdictions to share one system, and provide security restrictions by jurisdiction as appropriate.
7.	Security shall be configurable by functionality and device. This security strategy will apply to all system elements including CCTV and CMS.
8.	For multijurisdictional systems, each agency shall be able to monitor signal operations and reference plans and traffic conditions in neighboring agencies in order to provide for enhanced coordination.
9.	For multijurisdictional systems, the System shall display inter-jurisdictional traffic signal data to enable coordination and achieve seamless traffic flow between jurisdictions.
10.	The System shall be capable of providing access from multiple sites, and be able to control access and security privileges based on jurisdiction and by user.
11.	TCS software will be modular and scaleable.
12.	All System hardware components shall operate on a Windows platform.
13.	The System shall be capable of communicating via hardwire, wireless and leased telephone lines. All communication shall be RS-233.
14.	The System shall be capable of dial up access from remote sites. Dialup and VPN access will be configured into the network by the County.
15.	All static data will be maintained using an off-the-shelf Relational Database Management System (RDBMS) accessible via SQL.
16.	Static database backups may be performed onto a DAT tape backup, write able CD-ROM drive or a network drive.
17.	Libraries of approved timing plans will be available to assign to intersection controllers.
18.	All data required for System control and monitoring will be maintained to permit high-speed access.
19.	The System communications protocol shall be based on AB3418E standards.
20.	The System shall be capable of periodic archiving of certain dynamic data into the static database or onto a backup medium such as magnetic tape or CD. Daily archived data will include the following: <ul style="list-style-type: none"><li>• Event Log (includes alerts)</li><li>• System Detector</li><li>• Count Detector</li><li>• Link</li><li>• User Log</li><li>• Error Log</li><li>• MOE Data (Split monitor log)</li></ul>
21.	The System will include the ability to restore data stored on CD back to the online database. The Restore program will allow the user to select the data type and date of interest. Restored data will be accessible through History Reports.



## Appendix B – System Requirements

22.	The System shall support Fully actuated intersection operation under a coordinated background cycle.
23.	The System shall support, 9 or more Timing plans per intersection.
24.	The System shall be capable of supporting TRSP based plan selection.
25.	The System shall support Manual plan selection, and be capable of overriding TOD/TRSP plans, by system, group, and intersection.
26.	The System shall support Time reference and plan selection to sync groups (within same TCS and across TCS boundaries).
27.	The TCS will collect and maintain all data required for once-per-cycle monitoring and displays from all intersections at all times. Each controller will store the information from its previous cycle. If the intersection is not running coordination, data will be collected once per minute.
28.	The System shall gather VOS Detector data independent of local actuation and detection functions.
29.	The TCS will collect data from intersections on a once-per-cycle or once-per-minute period and aggregate data within the TCS.
30.	The System shall support up to 24 system detectors per intersection.
31.	The System shall upload detector data once per minute at a minimum.
32.	The detector data collected by the TCS will include volume, occupancy, and speed (as available at the controller).
33.	The TCS will collect events from the intersections on a once-per-second and/or once-per-cycle basis, depending on the event type.
34.	The TCS will collect events from the communications server regarding intersection communications status as they occur.
35.	The TCS shall be capable of issuing plan and mode changes to local controller.
36.	The TCS shall be capable of downloading plan data to local controller.
37.	The TCS shall provide services to upload and download local controller databases.
38.	The TCS shall be capable of comparing controller signal timing data in the central database with that in the field controller and issuing reports and/or alarms where different data is encountered.
39.	The System shall report when a controller is in Conflict Flash.
40.	The System shall report a controller communication failure or recovery.
41.	The System shall report when detectors are experiencing constant calls for user-set time period, if reported by the controller.
42.	The System shall report when detectors experiencing no calls for user-set time period, if reported by the controller.
43.	The System shall report when a detector is experiencing excessive calls (user set).
44.	The System shall be able to generate reports on detector % available at detector, intersection, or area level.
45.	The System shall report when a cabinet door is opened and detected by the controller.
46.	The System shall report when the police panel door is opened and detected by the controller.
47.	The System shall report when a controller detects pedestrian indication out.
48.	The System shall report when a controller detects vehicle detection indication is out.
49.	The System shall report when the Controller reports local database changes.
50.	The System shall report when the Controller reports operating status change (+COI).



## Appendix B – System Requirements

51.	The System shall be capable of prioritizing Alarms. There shall be a minimum of three levels of priority (low, medium and high) for alarms. New, unacknowledged, high-priority alerts shall be displayed at the top of the alert window.
52.	The System shall allow user-selectable priority for each possible type of alarm.
53.	If field communications are error free, the System shall display alarms within 5 seconds of occurring.
54.	All Alarms shall be logged and maintained in a database file.
55.	The System shall allow users to select to ignore an alarm based on alarm type.
56.	The System shall provide for different alarm report features by user and by alarm type. The System shall provide a feature allowing unique icons, priority, wav file, and action to be assigned to each alarm.
57.	The System shall allow users to select Alarms to print upon request and automatically print on designated printers.
58.	The System shall provide for Automatic archiving of Alarms on disk.
59.	The System shall automatically time stamp alarms and route to specified operator stations.
60.	The System shall provide the ability to add new alarms or events to one component of the system without rebuilding any other part of the system.
61.	The System shall provide the ability for Administrators to configure the system to deliver various alarms to multiple destinations.
62.	The System shall provide the ability for Users to configure individual delays for alarms.
63.	The System shall provide the capability for Users to route alarms to specific agencies.
64.	The System shall be able to monitor intersection operation to verify compliance with the selected timing plan.
65.	The System shall provide for TOD/DOW Control via system-wide, group, and individual intersection, w/ command hierarchy.
66.	The System shall provide for Fixed and “floating” holiday exception tables. Holidays will override the standard TOD/DOW control tables.
67.	The System shall provide the ability to import data in from Synchro, and allow import directly onto timing sheets.
68.	The System shall be capable of displaying green-band time-space diagrams based on current intersection/timing plan database.
69.	The System shall allow an operator to modify a subset of the intersection timing plan database items (offset) via the time space Diagram Editor.
70.	The System shall be capable of printing time/space diagrams.
71.	The System shall be capable of synchronizing time via the Universal Time Base, WWV, or other equivalent time based unit.
72.	The System central server will maintain time for system. Local controller time will serve as back up if communication is lost.
73.	The System will have the capability to accept commands from and provide data to external systems via an NTCIP port or CORBA interface, if required in the future.
74.	The System will support different baud rates for communications channels to the controllers.
75.	The System will support different baud rates for communications channels to the operator workstations.
76.	The System will support controllers using the NTCIP protocol, if required in the future.
77.	The System shall communicate with each intersection once per second.
78.	The system shall support the use of Data Concentrators to demultiplex 56Kbps links from the shared TCS to 9600 or 1200 bps links to 170 controllers. The Data Concentrators may



## Appendix B – System Requirements

	be located in 170 field cabinets, or in the TOC's.
79.	The System shall support communication protocols for the LACO-IV 170 software package.
80.	All user accessible software will use a common graphical user interface (GUI).
81.	The GUI will allow the use of a mouse.
82.	The operator workstations shall have a minimum screen resolution of 1600x1200x16 colors.
83.	The GUI shall have drop down menus to provide users with commands to the system.
84.	The GUI will provide context-sensitive help for all windows and dialog boxes.
85.	Operator workstations will be able to print a useful copy of the screen on paper.
86.	The GUI will run on a workstation running via the Microsoft Windows platform.
87.	The system shall support a variable number of operator workstations for the system as a whole and at individual TOC's.
88.	The System will allow users at any workstation to have the ability to control any intersection in the system if they have been granted that privilege.
89.	Operators will be able to manipulate intersection controllers if they have the proper privileges.
90.	The user interface will provide geographically accurate maps of LA county, corridors in the county, and cities in corridors. The base graphics will be provided by the County.
91.	The System shall provide the capability to zoom maps to more detailed views. This will take less than 5 seconds using current PC technology. Once zoomed, the System shall provide the capability to pan the view through different areas of the map.
92.	The System shall provide the capability to click areas on the maps will allow switching to more detailed views of the county, corridors, jurisdictions, sections, or intersections.
93.	The System shall allow an operator with the correct security privileges to edit the base map displays, and textual or graphical information in them.
94.	The System shall have the capability to interface with CMS signs and to display CMS equipment status (on/blank/failed) at all times if required in the future.
95.	The System shall be capable of viewing CMS messages if required in the future.
96.	The System shall be capable of displaying congestion information for arterial segments.
97.	The System will provide a means to display current timing plan information (cycle/split/offset) for arterial controllers.
98.	The System shall be capable of displaying display volume, occupancy, speed, and V+kO data directly as well as congestion data.
99.	The System shall be capable of displaying main and side street green returns for intersection controllers.
100.	The System shall display intersection phase color indications.
101.	The System shall displays intersection pedestrian indications (Walk/Don't Walk).
102.	The System shall displays Pedestrian Push Button calls.
103.	The System shall display vehicle detector calls.
104.	The System shall display link congestion indication.
105.	The System shall display indication of which interval currently timing on each controller.
106.	The System shall display status of coordination at each controller.
107.	The System shall display details of coordination at a controller: coordination timers. This includes the master cycle timer.
108.	The System shall display the status of all conflict monitors.
109.	The System shall be capable of displaying data from the same or different intersections on multiple workstations simultaneously.
110.	The System shall display detector volume counts.



## Appendix B – System Requirements

111.	The System shall display detector occupancy (%).
112.	The System shall display average speed over detector.
113.	The System shall display V+kO value for each detector.
114.	The System shall be capable of displaying New data types available from existing or new controllers without code recompilation. Once the new data is configured at the central server, it will be available to the rest of the system without further configuration.
115.	The System shall be capable of printing formatted reports from logged VOS data.
116.	The System shall be capable of providing a report of intersection delays by day, month or year.
117.	The System shall be capable of providing a report of arterial congestion link speeds.
118.	The System shall be capable of providing a report of arterial congestion link V+kO.
119.	The System shall be capable of providing a report of arterial congestion link volumes.
120.	The System shall be capable of providing a report of arterial congestion link Occupancy reports.
121.	The System shall be capable of providing a report indicating variations in volumes by day, week, month, and season.
122.	The System shall provide a customized report generator tool.
123.	The System shall be capable of automatically generating a report by TOD.
124.	The System shall be capable of generating a report of alarms, such as link congestion or traffic condition.
125.	The operator interface will provide a means of reporting system alarms to users.
126.	The operator can add informational events to the system event log.
127.	The System shall provide the capability to initiate the download of traffic signal data from the field.
128.	The System shall be capable of formatting printouts - not "print-screens". Will be able to print out full or partial database with "clean" layout.
129.	The System shall provide a mechanism for auto-upload, auto-compare of all system functions by TOD or upon user request.
130.	The System shall be capable of uploading traffic signal data from the field to the central.
131.	The System shall store Local databases in an RDBMS, allowing SQL based queries.
132.	The System will support LACO-IV firmware.

**Exhibit C - Price and Schedule of Payments**

**Attachment 1**

**SCHEDULE OF DELIVERABLES AND PAYMENTS**

The following table presents KHA's Schedule of Deliverables and Payments for the Traffic Control System Agreement by and between County and KHA (the "Agreement"). Capitalized terms used herein have the meanings given to such terms in the base document of the Agreement. The items listed in the following table reflect the project Tasks and Deliverables, and will also serve as the basis for submitting invoices. The "Amount" scheduled for Task 1 (Project Management), Task 9 (Evaluation Test Period) and Additional Services is a "not to exceed" price for such Work, which Work will be performed on a time and materials basis in accordance with the Hourly Labor Rates shown in Attachment 2 (KHA's Applicable Hourly Rates) to this Exhibit C (Price and Schedule of Payments). All other Tasks and Deliverables will be performed on a firm fixed price (FFP) basis.

**Project Costs & Schedule per Task/Deliverable**

<b>Task/Deliverable</b>	<b>Value (Labor &amp; Directs)</b>	<b>Holdback Amount</b>	<b>Aggregate Invoice Amount<sup>1</sup></b>	<b>Deliverable Due Date (Weeks from NTP)</b>
1. Project Management <sup>2</sup>	\$95,000	\$9,500	\$85,500	----
2. Preliminary Engineering				
2.1(a) System Integration Procedures Draft	\$30,000	\$3,000	\$27,000	16
2.1(b) System Integration Procedures Final	\$5,000	\$500	\$4,500	20
2.2(a) Software Functional Specification Draft	\$22,500	\$2,250	\$20,250	22
2.2(b) Software Functional Specification Final	\$2,500	\$250	\$2,250	26
2.3(a) Communication Review Draft	\$22,500	\$2,250	\$20,250	14
2.3(b) Communication Review Final	\$2,500	\$250	\$2,250	18
3. Procurement				
3.1(a) Bill of Materials for Central System Equipment Draft	\$22,500	\$2,250	\$20,250	6
3.1(b) Bill of Materials for Central System Equipment Final	\$2,500	\$250	\$2,250	8
3.2 License to the Integrated System (without incremental license fees for other agencies)	\$200,000	\$20,000	\$180,000	6
3.3 License to the KITS CCTV Module	\$45,000	\$4,500	\$40,500	6
4. Custom Programming Modifications to KITS				
4.1(a) KITS and LACO-4 GUI Screen Mockups Draft	\$130,000	\$13,000	\$117,000	26
4.1(b) KITS and LACO-4 GUI Screen Mockups Final	\$20,000	\$2,000	\$18,000	30
4.2 Critical Design Review	\$160,000	\$16,000	\$144,000	30
5. Custom Programming Modifications to LACO-4 Firmware <sup>3</sup> <b>OPTIONAL, Task subtotal = \$180,000<sup>8</sup></b>				
5.1 LACO-4 AB3418E Demonstration	\$60,000	\$6,000	\$54,000	24
5.2 LACO-4 Communication Program and Upgraded LACO-4 Program, including Source Codes, User Documentation and Developer Documentation	\$120,000	\$12,000	\$108,000	28
6. Testing and System Integration		\$0	\$0	
6.1(a) Acceptance Test Plan, including Proposed Response Times Draft	\$22,500	\$2,250	\$20,250	34
6.1(b) Acceptance Test Plan, including County-approved Response Times Final	\$2,500	\$250	\$2,250	38
6.2(a) Installation Procedure Draft	\$22,500	\$2,250	\$20,250	36
6.2(b) Installation Procedure Final	\$2,500	\$250	\$2,250	40
6.3 Factory Demonstration	\$40,000	\$4,000	\$36,000	40
6.4 Equipment Installation at the County TMC	\$30,000	\$3,000	\$27,000	42
6.5 System Installation for 16 Intersections	\$35,000	\$3,500	\$31,500	48
6.6 License to the Integrated System for Additional Agencies <sup>3</sup>	\$150,000	\$15,000	\$135,000	N/A
6.7 40 Hours of Training	\$10,000	\$1,000	\$9,000	52
7. Documentation				
7.1(a) Electronic copies of the System USER'S, MAINTENANCE AND QUICK START GUIDE for KITS Draft	\$40,000	\$4,000	\$36,000	46
7.1(b) Electronic copies of the System USER'S, MAINTENANCE AND QUICK START GUIDE for KITS Final	\$10,000	\$1,000	\$9,000	50
7.2 20 Hours of Training	\$5,000	\$500	\$4,500	50
8. System Acceptance and Configuration				
8.1(a) Acceptance Test Report Initial	\$40,000	\$4,000	\$36,000	54
8.1(b) Acceptance Test Report Final	\$10,000	\$1,000	\$9,000	58
8.2 Addition of 50 Intersections	\$25,000	\$2,500	\$22,500	60
8.3 20 Hours of Training	\$10,000	\$1,000	\$9,000	62
9. Evaluation Test Period				
9.1 Final Acceptance <sup>2</sup>	\$50,000	\$5,000	\$45,000	74
9.2 Warranty Period <sup>4</sup>	\$50,000	\$5,000	\$45,000	N/A
10. Training				
10.1 Electronic Copies of Training Documentation (syllabus, manuals, visual presentation materials)	\$10,000	\$1,000	\$9,000	78
10.2 40 Hours of Hands-on Training	\$10,000	\$1,000	\$9,000	78
<b>SUBTOTAL</b>	<b>\$1,515,000</b>	<b>\$151,500</b>	<b>\$1,363,500</b>	
Maintenance Services with Upgrade Path (4 year total) <sup>5</sup>	<b>\$280,000</b>			
Database Administration (4 year total) <sup>6</sup>	<b>\$30,000</b>			
Additional Services <sup>2,8</sup>	<b>\$247,250</b>			
<b>MAXIMUM CONTRACT SUM<sup>7</sup></b>	<b>\$2,072,250</b>			

Note: Standard County deliverable review period: 3 weeks.

<sup>1</sup> The "Aggregate Invoice Amount" is the maximum amount payable by County for the applicable Task/Deliverable after reduction for the Holdback Amount.

<sup>2</sup> The dollar amounts in these rows assume payment by County of the maximum amount of fees allocated for Project Management, Final Acceptance, and Additional Services, on a "not to exceed" basis. Additional Services and Project management related travel are subject to County prior approval.

<sup>3</sup> License fee payment due upon either a) the procurement of KITS by an agency within the County, or b) the addition of an agency within the County to the County system (Completion of Deliverable 6.5), whichever occurs first.

<sup>4</sup> KHA will invoice the County for the amount indicated at the start of the 12-month Warranty Period.

<sup>5</sup> KHA will invoice the County 1/12 of the Annual Maintenance Fee of \$70,000 at the start of each Maintenance Service Month, to be commenced after the Warranty Period.

<sup>6</sup> KHA will invoice the County 1/12 of the annual service fee of \$7,500 with the Maintenance Services with Upgrade Path if this service is requested by the County.

<sup>7</sup> These totals may be subject to adjustment for any amounts owed to County by Contractor arising under the Agreement.

<sup>8</sup> Denotes optional task. Task 5 is for not a not-to-exceed fee of \$180,000. Contingency fund of \$20,000 is included in Additional Services.



## Attachment 2

### KHA's Applicable Hourly Labor Rates

**Project Name:** LACO KITS

<b>Classification</b>	<b>Hourly Rate</b>
CADD / SUPPORT STAFF	\$ 85.00
ANAYLYST	\$ 105.00
PROFESSIONAL	\$ 135.00
PM	\$ 175.00
SENIOR PROFESSIONAL	\$ 180.00
PROJECT DIRECTOR	\$ 200.00
PRINCIPAL	\$ 220.00

Key Staff identified for Initial Phase

<b>Key Staff</b>	<b>Classification</b>
Jason Castillo	PM
Henry B. Wall, III	PRINCIPAL
Bob Barkley	PRINCIPAL
Pierre Pretorius	PROJECT DIRECTOR
Travis Cutright	SENIOR PROFESSIONAL
Hubert Adams	PROFESSIONAL
Krystal Lucas	ANAYLYST
Mohammed Dimassi	ANAYLYST
Lyndee Walborn	SUPPORT STAFF
Mike Sowers	SUPPORT STAFF
Leslie Marshall	SUPPORT STAFF
Teresa Benton	SUPPORT STAFF

## Kimley-Horn Integrated Transportation Systems (KITS™)

KITS integrates Kimley-Horn's proven arterial control functionality with the wide variety of devices and analysis tools supported by our proven Freeway Management System (FMS). In addition to traditional signal and freeway device support, KITS integrates the latest in industry-standard technologies for Advanced Transportation Management Systems (ATMS), including congestion management and NTCIP protocol support. Kimley-Horn's integrated approach to transportation management maximizes the effectiveness of an agency's ITS resources.

### **ARTERIAL SYSTEMS**

KITS provides a wealth of traffic control and traffic engineering features designed to enhance traffic flow on arterial networks. These functions have been developed and refined over 15 years of continuous operation.

### **TRAFFIC CONTROL**

KITS provides a full range of traffic control features built on a state-of-the-art centralized-distributed system architecture. The predecessor of KITS dates to 1989 and was one of the original systems to combine the power of centralized Urban Traffic Control Systems (UTCS) with the convenience and inherent redundancy of closed-loop architecture.

Traffic control features include support for the following modes of operation:

- Time-of-day (TOD) schedule
- Event schedule
- Traffic responsive
- Manual command

These modes of operation can be selected on a time-of-day basis or by operator command. Similarly, intersections can be assigned to a different control section by TOD schedule or operator command.

A traffic control summary report allows the operator to quickly identify active control modes across the full extent of the system. In addition, a current command display provides a list of all active manual commands. This flexibility allows the traffic engineer to configure and refine the system to meet the demands of predictable traffic patterns.

KITS functionality goes well beyond control of the predictable. A commonsense approach to congestion management provides additional features designed to mitigate unusual traffic conditions created by incidents, weather, or other causes. The features include the following:

- Congestion alerts based on operator-defined detector thresholds
- Automatic repositioning of cameras allowing operators to view affected areas sections
- Operator selection of predefined DMS messages
- Ad hoc creation of multi-intersection control areas that can be manually commanded

Combining these control features with system-health monitoring capabilities allows KITS to be an important component of evacuation planning for emergency management purposes.

### **TRAFFIC ENGINEERING**

Kimley-Horn brings more than 35 years of traffic engineering expertise to the development of such KITS features as:

- Collection and reporting of detector data including volume, occupancy, and speed for planning and timing plan development
- Editing of signal controller databases including edit, download, upload, and import functions
- Integrated time/space diagram with drag-and-drop offset modification

## Exhibit D – Description of Software

- Synchro interface, allowing the user to import timing plans developed by Synchro directly into the system
- Real-time coordination logic display
- Split monitor for comparing programmed and actual splits
- Measure-of-effectiveness (MOE) data collection including stops, queues and delays

### INCIDENT MANAGEMENT

KITS provides a comprehensive database capability to record and track incidents over time. An operator that manages an incident can edit and store a wide range of information related to the incident. This data is available through reports for historical analysis.

### COMMON FEATURES

The following sections describe features that are common to both arterial and freeway systems. By virtue of this common approach to many system features, KITS is well suited to meet both arterial and freeway operations of a single agency or an entire region.

### GRAPHICAL USER INTERFACE (GUI)

KITS uses geographic information system (GIS) technology as the basis for its GUI. A system map provides access to device-related functions, using icons to represent individual devices. Right-clicking on an icon displays a menu of functions associated with that device.

In addition to the map display, diagrams of intersections, arterials, freeway segments, and ramps are available. These diagrams can be configured to display real-time device information including intersection phasing, detector thresholds, and ramp metering rates.

KITS provides a menu from which any function of the system can be selected. Alternatively, hot-keys can be defined to select functions using a simple key combination. The hot-keys are configured by each user to suit individual preferences.

### SECURITY

KITS provides comprehensive security provisions that can be tailored to meet an agency's needs. An operator with administrative security access can configure roles within the system. Access levels include the following:

- No Access
- View Only
- Upload Access
- Download Access
- Editing Access

The administrator completes the process by assigning each user's Windows login name to a role.

The security system also tracks user activities by logging a time-stamped entry in the database each time a user makes a change in the system. A report is provided allowing the administrator to search this log for activities of a selected user over a specified period of time.

In addition to security based on individual users, KITS provides multi-agency support by providing security based on device ownership. This allows a user to view the operation of another agency's devices without being able to affect operations.

### MAINTENANCE

Effective maintenance of transportation system components is critical to successful traffic operations. KITS provides equipment monitoring, failure alerts, diagnostic displays, and historical tracking of all system components.



## Exhibit D – Description of Software

Equipment monitoring involves periodic polling (up to once per second) of all configured field devices. Based on operator configurable parameters, detected failures can generate the following types of alerts:

- Audible alerts to system workstations
- Text messages to pagers and PDAs
- E-mails to any designated recipient

Each alert indicates the device type, location, and the type of failure detected. Paged and e-mail alerts can be routed to one or more maintenance staff on a scheduled basis.

Diagnostic reports are provided as a means to evaluate a failure in more detail using the central system. Real-time diagnostic reports include the following:

- Cabinet input/output display
- Coordination logic display
- Split monitor display
- Communication transaction report

KITS keeps a record of component failures in a historical database table. Predefined reports are provided to evaluate this data based on equipment type, location, date/time, and type of failure. These reports are supplemented by an open database design that allows customized reports using a variety of third-party tools.

## DEVICES

Kimley-Horn's focus is to cost-effectively configure and integrate a transportation system that meets your agency's specific needs. KITS supports open-architecture industry-standard equipment used for a variety of transportation related applications. A partial list of supported device types includes the following:

- Model 2070 controllers
- Model 170 and 179 controllers
- NEMA controllers (NTCIP)
- CCTV cameras
- Video switches
- Dynamic Message Signs (DMS)
- Loop, video, and acoustical detectors
- Trailblazer signs
- Weather sensors including Road Weather Information System (RWIS) and flood warning
- Gate control devices

## COMMUNICATION PROTOCOLS

Unlike most system suppliers that also manufacture equipment, Kimley-Horn is committed to protecting your investment by supporting communication standards that provide interoperability among equipment vendors. NTCIP is critical to this approach in the transportation industry.

For the purpose of communication between the central system and various field devices, KITS supports NTCIP. Common elements of NTCIP supported by KITS include:

- SNMP
- PMPP
- RS-232 over various media
- UDP and TCP over IP networks

## Exhibit D – Description of Software

Additional center-to-field protocol support includes the following:

- AB3418E (Caltrans standard)
- Manufacturer standard
- Agency standard

For the purpose of center-to-center communications, KITS supports the following NTCIP constituent protocols:

- CORBA
- XML
- DATEX

### COMMUNICATION MEDIA

The communication plant required to support a transportation system is often the most costly element of a system deployment. KITS has been designed to operate effectively over a variety of high and low band-width media. Examples of communication media used in existing KITS deployments include the following:

- Fiber optic
- CATV (Coax)
- Broadcast RF (FM band)
- Microwave
- Spread spectrum
- Twisted-pair
- Dial-up analog and digital lines

In addition, communication between an operator's laptop computer and the central system can be accomplished by a simple cellular-phone connection. This capability makes mobile operation a reality for users of KITS.

### PLATFORM

The predecessor of KITS dates to 1989. At that time, a combination of mini-computers and DOS workstations were used to run the system. In the intervening years, KITS has been enhanced and updated to support a variety of operating systems. Beginning in 1999, all KITS deployed systems have used Window NT or newer Windows operating systems running on commercial-off-the-shelf (COTS) PC hardware. Kimley-Horn is committed to supporting the most cost-effective hardware and operating system software available.

The following is a list of typical equipment and related third-party software:

- PC server running Windows 2000/2003 and SQL server database management system
- Digiboard or Rocket Port multi-port serial adapter or terminal server connected to field communication network.
- One or more (no limit) Windows 2000 or XP Workstations
- LAN/WAN
- Remote Access Services (RAS)
- Virtual Private Network (VPN)

KITS easily integrates with your existing equipment. The same workstation you use for e-mail and Microsoft Office applications can also be used as a KITS workstation.

### DESIGN AND INTEGRATION SERVICES

Kimley-Horn is a nationally recognized leader in ITS design and integration services. Our comprehensive approach to ITS technology assures that we have the expertise to manage your agency's system implementation process

## **Exhibit D – Description of Software**

successfully. Kimley-Horn staff is passionate about our work and would welcome the opportunity to discuss our approach to your agency's ITS deployment plans.

**MAINTENANCE & SUPPORT****I. INTRODUCTION.**

Capitalized terms used in this Exhibit E (Maintenance & Support) without definition shall have the meanings given to such terms in the base document of the Agreement. The other rules of construction set forth in Paragraph 1.4 (Construction) of the base document of the Agreement shall apply to this Exhibit E (Maintenance & Support).

**II. SYSTEM MAINTENANCE.**

Throughout the Term and in exchange for the payment of the Maintenance Fees in the amounts set forth on Attachment 2 (Maintenance Fees) to Exhibit C (Price and Schedule of Payments) pursuant to the Agreement, KHA shall provide Maintenance Services for the System Software from KHA's business premises and/or from County facilities, Monday through Friday from 7 A.M. to 6 P.M. (Pacific Standard Time) (such time period is referred to herein as "Business Hours"), provided KHA shall be available via electronic mail, cellular phone or pager during all other hours to respond to a request for Maintenance Services arising from a Level I Priority error or malfunction. KHA shall contact County by 8 A.M. following receipt of a request for Maintenance Services made outside of Business Hours. County Project Manager may submit a request for Maintenance Services via electronic mail (email), telephone, or pager. Maintenance service calls (including pager calls) reporting System Software Deficiencies will be followed up by the County Project Manager via electronic mail (email) for KHA record keeping. Maintenance Services shall include KHA performing the following tasks as outlined below:

**A. General:**

1. County shall endeavor reasonably to provide KHA with information and assistance necessary to detect, simulate, reproduce, and correct Deficiencies, but regardless of the level of assistance provided by County, KHA, solely, is responsible for the timely correction of Deficiencies. County is responsible for maintaining a virtual private network ("VPN") connection into the traffic network. KHA will advise the County on recommended technology and security precautions in respect of such VPN.
2. KHA shall provide County with revised and installed County-Owned Customizations Source Code and avoidance procedures including related Documentation, if necessary, to correct any Deficiencies to the County-Owned Customizations.

3. KHA shall provide downloadable electronic System Software Updates to provide County with avoidance procedures including related Documentation, if necessary, to correct any Deficiencies to the System Software; provided that County shall not be responsible for System Software errors or malfunctions resulting from downloading or installing such System Software Updates. Any revised Source Code that corresponds to the Updates shall be deposited with County pursuant to the self-escrow provisions set forth in Paragraph 15 (Source Code) of the base document or in respect of Updates to County-Owned Customizations, shall be delivered to County pursuant to Paragraph 15.1 (County-Owned Customizations Source Code) of the base document.
4. KHA shall notify County as Updates to the System Software become available. County can add such Updates to the System Software without paying an additional license fee. Updates that do not require integration into the System Software will be provided at no additional cost to County. For features that require integration with County-Owned Customizations, an estimate will be provided that details projected effort to integrate the feature into the Integrated System. Integration time will be charged on a time and materials basis, calculated by multiplying the amount of hours worked by the applicable Hourly Labor Rates set forth in Attachment 3 (KHA's Applicable Hourly Labor Rates) to Exhibit C (Price and Schedule of Payments). Any Updates necessary to remedy security problems in the System Software (e.g., closing "back doors" or other intrusion-related problems), whether identified by KHA, County or a third party, shall be provided to County within ten (10) calendar days of KHA's knowledge of the existence of such security problems.
5. KHA shall notify County within seven (7) calendar days of the release by Microsoft or another third party vendor of any security patch for the operating system software. KHA shall test the Compatibility of the security patch with the System Software in its laboratory facility, and shall confirm Compatibility and report its findings to County within fourteen (14) calendar days after the release of such security patch, and shall, at no additional cost to County beyond the Maintenance Fees, provide Updates to the System Software necessary to make such operating system software security patch compatible with the System Software within thirty (30) calendar days after the release of the security patch by Microsoft or another third party vendor, as applicable. In the event it is determined during testing that the operating system security patch is not Compatible with a third-party software product, KHA shall provide the County with an operational plan to protect the integrity of the System Software until such time as the third-party product is modified by the third party vendor.

- 6.** County shall notify KHA thirty calendar (30) days prior to the planned installation of any service packs to the existing version of operating system software. KHA shall verify the Compatibility of the service pack with the System Software in its laboratory facility and report its findings to the County within fourteen (14) calendar days after notification from County of its planned installation of the service pack, and shall, at no additional cost to County beyond the Maintenance Fees, provide Updates to the System Software necessary to make such operating system software service packs compatible with the System Software within forty-five (45) calendar days after the notification by County. In the event it is determined during testing that the operating system service pack is not Compatible with a third-party software product, KHA shall provide the County with an operational plan to protect the integrity of the System Software until such time as the third-party product is modified by the third party vendor.
- 7.** KHA shall provide Maintenance Services for Custom Programming Modifications, Customizations and Interfaces developed by KHA at no additional cost to County beyond the Maintenance Fees. KHA shall not provide Maintenance Services for any Customization that is to be a County-Owned Customization pursuant to Task 5 (Integration with LACO-4 Firmware) of Exhibit B (Statement of Work).
- 8.** KHA shall provide Maintenance Services for Third Party Software that is deemed to be part of the System Software, as described on Exhibit F (Third Party Software) at no additional cost to County beyond the Maintenance Fees, regardless of whether the license to such Third Party Software is obtained through KHA, or is obtained through an extension of an existing County license with such Third Party Software provider.
- 9.** If requested in writing by County Project Director, KHA shall provide database administration tasks for the Integrated System, at the price set forth for “Database Administration” in Exhibit C (Price and Schedule of Payments). County can terminate database administration services at any time by providing thirty (30) days written notice to KHA. The database administration tasks include the following:

  - a.** KHA will validate and install database patches within thirty (30) days of the release of such patches.
  - b.** Backup routines to export the entire database shall occur on a daily basis.

- c. On a weekly basis, KHA will check the database log files to verify backup data.
  - d. Every calendar quarter, KHA will tune and optimize the database, check log files, disk space availability and other similar tasks.
10. If County submits a request for Maintenance Services, KHA shall diagnose the Deficiency and determine whether it is caused by the System Software. Such diagnosis and determination shall be included in the Maintenance Services hereunder and provided without additional charge, even if the condition is ultimately determined to be caused by System Hardware, operating system software or user error and not by the System Software. KHA shall be responsible for fixing Deficiencies that arise as a result of modifications made to the current version of operating system software in use by County as of the Effective Date or as updated by mutual agreement of County and KHA. KHA shall specify the item of such System Hardware or operating system software that caused the apparent Deficiency. If KHA diagnoses the Deficiency and determines that the problem is caused by a communications or controller issue and County agrees with such diagnosis, County shall reimburse KHA for certain portions of such Work, the cost of which shall be calculated by adding: (i) the number of hours worked on-site by KHA to correct such communications-related Deficiency multiplied by the applicable Hourly Labor Rates set forth in Attachment 3 (KHA’s Applicable Hourly Labor Rates) to Exhibit C (Price and Schedule of Payments), plus (ii) reimbursement of KHA’s Out-of-Pocket Expenses.
11. Although a maintenance request may be initiated by telephone or by pager, a follow up email containing substantially the information set forth below shall be required if Downtime Credits are to be applied. KHA shall create a unique email address for the sole use of County to send problem reports. KHA shall provide monthly reports to County, which shall include the following data that was sent in each initial problem report:
- a. Problem Number-to be completed by KHA;
  - b. Date and time reported;
  - c. Person reporting the problem and phone number;
  - d. Facility or program location where problem occurred;
  - e. Description of the problem;

- f. Problem Severity Level;
- g. Resolution status and estimated fix date – to be completed by KHA; and
- h. Resolution plan and results – to be completed by KHA.

**B. Corrective Maintenance:**

1. As part of Maintenance Services, KHA shall perform corrective maintenance to correct any failure of the System Software and to remedy Deficiencies (collectively, “Corrective Maintenance”), such that the System Software operates in accordance with Exhibit B (Statement of Work).
2. In the event that Corrective Maintenance is required of KHA, County will notify KHA of the need for Corrective Maintenance, and County Project Manager, in County Project Manager’s sole judgment, will determine if the error or malfunction is a Level I, Level II or Level III Priority (each, a “Problem Severity Level”):
  - a. “Level I Priority” means an error or malfunction, including a Deficiency, that causes the System Software or a component or application of the System Software to halt processing, and for which no reasonable workaround, other than a workaround developed by KHA under Paragraph II.B.3.a of this Exhibit, as part of Maintenance Services, is available.
  - b. “Level II Priority” means an error or malfunction, including a Deficiency, that prohibits required functionality, but at the time of the error or malfunction, a reasonable workaround is available to proceed, and such workaround does not substantially impair County’s normal business operations.
  - c. “Level III Priority” means an error or malfunction, including a Deficiency, which is inconvenient or an annoyance but does not affect functionality.
3. KHA shall provide Corrective Maintenance in accordance with this Paragraph II.B (Corrective Maintenance), as described below:
  - a. For Level I Priority, KHA shall provide expedient action to determine if there is a Deficiency. If KHA reasonably determines that there is a Deficiency, KHA shall provide continuous action to



correct the Deficiency. If a workaround restoring functionality is not provided within eleven (11) Business Hours (e.g., one business day) and the Deficiency is not corrected within twenty (20) business days, Downtime Credits may be applied pursuant to Paragraph III (Downtime Credits) of this Exhibit.

- b. For Level II Priority, KHA shall provide expedient action to determine if there is a Deficiency. If KHA reasonably determines that there is a Deficiency, KHA shall provide ongoing and diligent action to correct the Deficiency. If a workaround restoring functionality is not provided within seven (7) business days and the Deficiency is not corrected within twenty (20) business days, Downtime Credits may be applied pursuant to Paragraph III (Downtime Credits) of this Exhibit.
- c. For Level III Priority, KHA shall provide expedient action to determine if there is a Deficiency. If KHA reasonably determines that there is a Deficiency, KHA shall provide ongoing and diligent action to correct the Deficiency. If not corrected within ninety (90) calendar days, Downtime Credits may be applied pursuant to Paragraph III (Downtime Credits) of this Exhibit.

### III. DOWNTIME CREDITS.

#### A. General:

Downtime Credits shall accrue under this Exhibit for KHA's failure to maintain System Software reliability, for failure to timely correct Deficiencies and for the System Software's failure to satisfy Response Time Tests (as defined below), all as described in more detail below (collectively and individually, "Downtime Credits"). The amount of the Downtime Credit will depend on the extent and duration of KHA's continuing failures. The amount of time elapsed for the calculation of Downtime Credits will be determined by the timestamp of the email service request sent by County. Time elapsed shall only accrue during Business Hours. Downtime Credits can only be applied if (and during such period as when) County maintains VPN connectivity into the traffic network. County may not initiate a Level III service request on functionality contained within the existing Baseline Software that otherwise meets the requirements and specifications set forth in Exhibit B (Statement of Work). Such Downtime Credits only apply to System Software failures. If the condition leading to a service request is ultimately determined to be caused by System Hardware, such System Hardware failures are not subject to Downtime Credits.

**B. Downtime Credits – System Software Reliability.**

1. Without limiting any other rights and remedies available to County, either pursuant to the Agreement, at law, or in equity, County shall be entitled to Downtime Credits in the event there is a Level I Priority error or malfunction for a period of time (“Downtime”), as determined by County Project Director, for any System Software component for which KHA is providing Maintenance Services.
  - a. County shall be entitled to a Downtime Credit in the amount of one thirtieth (1/30) month of the applicable Maintenance Fees specified in Attachment 2 (Maintenance Fees) to Exhibit C (Price and Schedule of Payments) per day for every two (2) or more hours during the Business Hours that there is a Level I Priority error or malfunction.
  - b. Downtime Credits shall not be issued for Downtime occurring during mutually agreed upon scheduled or planned shut down of the System Hardware or System Software for Preventative Maintenance or Response Time testing.

**C. Downtime Credits – Corrective Maintenance Response Time Failures.**

If KHA fails to provide Corrective Maintenance on a timely basis in accordance with Paragraph II.B (Corrective Maintenance) of this Exhibit, then in each instance Downtime Credits shall accrue for the benefit of County, calculated as set forth below:

1. For Level I Priority errors or malfunctions, Downtime Credit equal to one thirtieth (1/30) of the aggregate monthly Maintenance Fee for each twenty-four (24) hours the Level I Priority error or malfunction continues: (a) without a workaround beyond twenty-four (24) hours from notice from County of such error or malfunction, or (b) without a resolution beyond twenty (20) business days from notice from County of such error or malfunction.
2. For Level II Priority errors or malfunctions, Downtime Credit equal to one sixtieth (1/60) of the aggregate monthly Maintenance Fee for each business day one or more Level II Priority errors or malfunctions continue: (a) without a workaround beyond seven (7) business days from notice from County of such error or malfunction, or (b) without a resolution beyond twenty (20) business days from notice from County of such error or malfunction.

3. For Level III Priority errors or malfunctions, Downtime Credit equal to one ninetieth (1/90<sup>th</sup>) of the aggregate monthly Maintenance Fee for each business day one or more Level III Priority errors or malfunctions continue without a workaround beyond ninety (90) calendar days from notice from County of such error or malfunction.

**D. Downtime Credits – System Software Response Time.**

Any Deficiencies which are identified as a result of the Response Time monitoring procedures set forth in Paragraph IV (Response Time Warranty) shall be considered Level II Priority errors or malfunctions. Downtime Credits for KHA's failure to remedy the Deficiency causing the System Software to fail to meet Response Times shall accrue as set forth in Paragraph III.C.2.

**IV. RESPONSE TIME WARRANTY.**

**A. General:**

1. "Response Time" means the elapsed time from the entry of a query at the workstation, to the time the workstation fully displays the complete response exclusive of connectivity latencies. To demonstrate the Response Time independent of connectivity latencies, a controller shall be directly connected to the communication server serial port. This controller shall be used to measure all transactional queries.
2. Transactional queries, defined as an upload or download of a single controller database page or a single controller command, must have a Response Time of not more than ten (10) seconds.
3. Subject to Paragraph IV.A.2 above, the Response Time for report and transactional queries shall be defined during acceptance testing as specified in Task 6 (Integration and System Testing) of Exhibit B (Statement of Work). It is understood that the Response Time for the reports shall be dependent on the complexity of the report and the number of the records contained within the related database tables. If there is a significant increase in Response Time, the County may report this as a Response Time Deficiency.
4. County shall determine Response Time Deficiencies in accordance with a mutually agreed upon Response Time verification procedure, which isolates connectivity latencies.
5. County shall report Response Time Deficiencies as Level II Priority errors or malfunctions. KHA shall be responsible to resolve all hardware

Compatibility and software issues causing Response Time Deficiencies, excluding connectivity latencies.

**B. Monitoring Procedure:**

1. From time to time at County's discretion, County is entitled to request that KHA, and KHA agrees to, monitor the System Software for a continuous length of time as agreed to in writing by County and KHA, in accordance with a mutually agreed upon monitoring plan, to verify defined Response Time.
2. A written report shall be prepared by KHA, which shall state the total number of prompt-to-prompt interactions measured during the monitoring period, the Response Time of each such interaction and such other information as is agreed to by both KHA and County.
3. Any noted Deficiencies resulting from the Response Time test shall be classified as Level II Priority errors.
4. County shall provide KHA with written notice informing KHA that County is requiring a Response Time test. The Response Time test shall commence no later than fifteen (15) business days after County provides such notice unless the parties mutually agree otherwise.
5. KHA shall provide County with its standard test plan that will be developed under Task 6 (Integration and System Testing) of Exhibit B (Statement of Work).
6. Prior to commencement of the testing, County will notify users of any conditions and restrictions of System Software use during the test period.

**EXHIBIT G**

**PREAPPROVED SUBCONTRACTORS**

None.

## **Exhibit F – 3<sup>rd</sup> Party Software**

KHA will maintain the following 3<sup>rd</sup> party software:

- Borland C++ Builder 6 Professional
- Turbo Power Orpheus 4
- Korbitec ODBC Express 5.07
- ESRI Map Objects 2.2
- ESRI ArcGIS 9.0
- Seagate Crystal Reports 8.5 Developer's Edition
- Robo Help 2002
- T-ExcellentForm Printer 3.2
- SQL Server 2000
- PageGate Paging Software

**EXHIBIT H**

**SAMPLE SUBCONTRACT**

**SUBCONTRACT AGREEMENT**

**BY AND BETWEEN**

**KIMLEY-HORN AND ASSOCIATES, INC.**

**AND**

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## Subcontract Agreement

### Recitals

THIS SUBCONTRACT AGREEMENT (hereafter “**Agreement**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between Kimley-Horn and Associates, Inc., a [INSERT TYPE OF ENTITY] located at [INSERT ADDRESS] (“**KHA**”), and \_\_\_\_\_, located at \_\_\_\_\_ (hereafter “**SUBCONTRACTOR**”).

WHEREAS, KHA has entered into Los Angeles County Contract Number \_\_\_\_\_ (hereafter “**Prime Contract**”) with the County of Los Angeles, State of California (hereafter “**COUNTY**”) for the purpose of providing the COUNTY with an Integrated System that will enable the COUNTY’s Department of Public Works to monitor and control traffic signal controllers using COUNTY specified communication protocols; and

WHEREAS, in order to fulfill all of its obligations to COUNTY under the Prime Contract, KHA desires to engage SUBCONTRACTOR to perform Work in the area(s) of \_\_\_\_\_; and

WHEREAS, SUBCONTRACTOR desires to perform such Work in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, KHA and SUBCONTRACTOR agree as follows:

1. **APPLICABLE DOCUMENTS:** Exhibits A, B, C, and D are attached to and form a part of this Agreement. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents of any Task, subtask, Deliverable, service, or other Work, or otherwise, between the Prime Contract and the body of this Agreement and the Exhibits hereto, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Prime Contract, then to the body of this Agreement, and then to the Exhibits according to the following priority:
  - 1.1 Exhibit A - Additional Terms and Conditions
  - 1.2 Exhibit B - Statement of Work
  - 1.3 Exhibit C - Jury Service Program
  - 1.4 Exhibit D - Subcontractor Employee Acknowledgment, Confidentiality & Assignment Agreement
2. **DEFINITIONS:** Unless otherwise defined in this Agreement, all capitalized terms shall have the meanings as set forth in the Prime Contract.



- 2.1 “Agreement” shall have the meaning set forth in the Recitals.
- 2.2 “COUNTY” shall have the meaning set forth in the Recitals.
- 2.3 “KHA” shall have the meaning set forth in the Recitals.
- 2.4 “Prime Contract” shall have the meaning set forth in the Recitals.
- 2.5 “SUBCONTRACTOR” shall have the meaning set forth in the Recitals.
3. **PRIME CONTRACT:** Notwithstanding any other provision of this Agreement, this Agreement is a subcontract under the Prime Contract and SUBCONTRACTOR and KHA agree that each and all of the provisions of the Prime Contract and any amendments thereto shall extend to and be binding upon SUBCONTRACTOR.
4. **WORK:** SUBCONTRACTOR shall complete and deliver to KHA all Tasks, Subtasks, Deliverables and other Work required hereunder in a timely manner and in accordance with the requirements and specifications set forth in the Exhibits attached hereto, including Exhibit B (Statement of Work). Time is of the essence of SUBCONTRACTOR’s performance hereunder.
5. **PERSONNEL:**
  - 5.1 All SUBCONTRACTOR personnel performing Work under this Agreement shall be subject to the right of KHA and of COUNTY to require replacement of such personnel. If at any time during the term of this Agreement, KHA or COUNTY requires the replacement of any SUBCONTRACTOR personnel, then SUBCONTRACTOR shall, promptly upon receipt of written or oral notice from KHA or COUNTY, replace such personnel with substitute experienced, qualified, and, if appropriate, licensed or certified personnel or take such other action as requested by KHA or COUNTY.
  - 5.2 If at any time during the term of this Agreement, any SUBCONTRACTOR personnel ceases performance for any reason, including resignation or termination, then SUBCONTRACTOR shall promptly replace such personnel with substitute experienced, qualified, and, if appropriate, licensed or certified personnel.
  - 5.3 KHA and COUNTY shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, federal, state, and local taxes, or other compensation benefits, or taxes, for any personnel provided by or on behalf of SUBCONTRACTOR.
  - 5.4 SUBCONTRACTOR understands and agrees that all persons performing Work under this Agreement are not, for purposes of workers’ compensation liability, employees of COUNTY or KHA. SUBCONTRACTOR shall be solely liable and responsible for any and all workers’ compensation benefits to any person as a

result of injuries arising from or connected with any Work performed by or on behalf of SUBCONTRACTOR pursuant to this Agreement.

- 5.5 SUBCONTRACTOR shall obtain an executed Subcontractor Employee Acknowledgment, Confidentiality & Assignment Agreement (Exhibit D) for each of its employees performing Work under this Agreement. Such agreements shall be delivered to COUNTY Project Director on or immediately after the effective date of this Agreement, but in no event later than the date any such employee commences Work under this Agreement.
6. **COMPENSATION:** All compensation to SUBCONTRACTOR (and its officers, employees, and agents) for its Work pursuant to this Agreement shall be paid by KHA and shall be as set forth in the Exhibits attached hereto, including Exhibit A (Additional Terms and Conditions). KHA shall be solely liable and responsible for any and all payments and other compensation to SUBCONTRACTOR and its officers, employees, and agents. COUNTY shall have no liability or responsibility whatsoever for any payment or other compensation for SUBCONTRACTOR or its officers, employees, and agents. Without limitation of the foregoing, SUBCONTRACTOR disclaims any right to seek any payment from COUNTY for any and all compensation or recovery of any of its costs, or to assert any lien against COUNTY, its assets, or rights in the Integrated System or any component thereof, on account thereof.
7. **TERM:** The term of this Agreement shall commence on \_\_\_\_\_ and shall continue through \_\_\_\_\_ unless sooner terminated, in whole or in part, as provided in this Agreement.
8. **TERMINATION:** KHA shall have the right to terminate this Agreement, in whole or in part, at any time by giving written notice to SUBCONTRACTOR when such action is deemed by KHA to be in its best interest. Further, this Agreement shall terminate, in whole or in part, upon receipt by KHA of written notice from COUNTY that COUNTY no longer approves the continuation, in whole or in part, of this Agreement. COUNTY reserves the right to cause KHA to terminate this Agreement, in whole or in part, when COUNTY deems SUBCONTRACTOR to be in breach of this Agreement. COUNTY shall not be liable or responsible in any way to SUBCONTRACTOR or to any directors, shareholders, officers, employees, or agents of SUBCONTRACTOR for any claims, demands, damages, liabilities, losses, costs, or expenses, including defense costs and legal, accounting and other expert, consulting, or professional fees, in any way arising from or related to COUNTY's exercise of such rights.
9. **THIRD PARTY BENEFICIARY:** KHA and SUBCONTRACTOR understand and agree that this Agreement is entered into for the benefit of COUNTY and that COUNTY is hereby expressly made a third party beneficiary of this Agreement.
10. **AMENDMENTS:** Neither KHA nor SUBCONTRACTOR are authorized to change in any way the terms, obligations, or conditions of this Agreement or the Exhibits attached hereto without the prior written consent of COUNTY Project Director, which consent

shall not be unreasonably withheld. Further, any attempt to change the terms and conditions set forth herein shall be invalid and ineffective unless such change is (a) made in the form of a written amendment formally executed by authorized officials of KHA and SUBCONTRACTOR, and (b) approved in writing by COUNTY Project Director, which approval shall not be unreasonably withheld.

11. **PROHIBITION AGAINST ASSIGNMENT AND DELEGATION:** This Agreement, or any interest herein, including any claim for monies due or to become due with respect thereto, shall not be assigned or delegated, or both, by KHA or SUBCONTRACTOR. Any assignment or delegation shall be null and void and shall constitute a material breach of this Agreement upon which COUNTY, upon notice to KHA and SUBCONTRACTOR, may terminate this Agreement, provided that in the event of termination of the Prime Contract, KHA has the right to assign this Agreement to COUNTY.
12. **PROHIBITION AGAINST SUBCONTRACTING:** Performance of this Agreement, or any part thereof, shall not be subcontracted by SUBCONTRACTOR. Any subcontract shall be null and void and shall constitute a material breach of this Agreement upon which COUNTY, upon notice to KHA and SUBCONTRACTOR, may terminate this Agreement.
13. **INDEMNIFICATION, INSURANCE AND PERFORMANCE BOND:**
  - 13.1 Indemnification: KHA and SUBCONTRACTOR agree to indemnify, defend, and hold harmless each other, their officers, employees, and agents from and against any and all claims, demands, liabilities, losses, costs, and expenses arising from third party action, including defense costs and legal, accounting and other expert, consulting, or professional fees, arising from or connected with claims and lawsuits for damages or workers' compensation benefits relating to KHA's or SUBCONTRACTOR's operations or their services, which result from bodily injury, death, personal injury, or property damage (including damage to property owned by or in the care, custody, or control of either party).
  - 13.2 Insurance: Without limiting either party's indemnification of the other and during the term of this Agreement, SUBCONTRACTOR shall provide and maintain at its own expense the following programs of insurance specified in this Agreement. Such insurance shall be provided by insurer(s) satisfactory to COUNTY's risk manager and shall be primary to and not contributing with any other insurance or self-insurance maintained by COUNTY. Certificates or other evidence of coverage satisfactory to COUNTY's risk manager, and evidence of such programs satisfactory to COUNTY, shall be delivered to COUNTY prior to commencing services under this Agreement. Such certificates or other evidence shall:
    - 13.2.1. specifically identify this Agreement;

- 13.2.2. clearly evidence all coverages required in this Agreement;
- 13.2.3. contain express conditions that COUNTY is to be given written notice by registered mail (i) at least thirty (30) days prior to any termination of any program of insurance or within ten (10) days in the event of non-payment of premium by SUBCONTRACTOR, and (ii) with respect to any material modification of any program of insurance, at least thirty (30) days in advance or immediately following SUBCONTRACTOR's first receipt of notice of material modification to the types or limits of coverage as outlined in this Agreement in the event SUBCONTRACTOR receives less than thirty (30) days advance notice of such modification;
- 13.2.4. include copies of the additional insured endorsement to the commercial general liability policy, naming all COUNTY Indemnitees as additional insureds for all activities arising from the Agreement; and
- 13.2.5. SUBCONTRACTOR has a deductible for each occurrence under its policies in the amount of \$10,000, deemed approved by COUNTY. Any increases in the deductible shall be subject to COUNTY's approval.
- 13.3 Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to COUNTY with an A.M. Best rating of not less than A:VII, unless otherwise approved by COUNTY.
- 13.4 Liability Insurance: Such insurance shall be endorsed naming the County of Los Angeles as an additional insured and shall include:
- 13.4.1. General liability insurance (written on ISO policy for CG 00 01 or its equivalent) with a combined single limit of not less than two million dollars (\$2,000,000) per occurrence. If the above insurance is written with an annual aggregate limit, the policy limit should be three (3) times the above required occurrence limit. If written on a claims made form, such insurance shall be endorsed to provide an extended reporting period of not less than two (2) years following the expiration or termination of this Agreement.
- 13.4.2. Comprehensive Auto Liability insurance (written on ISO policy form CA 00 01 or its equivalent) endorsed for all owned, non-owned, and hired vehicles, or coverage for "any auto" with a limit of not less than one million dollars (\$1,000,000) per accident. If the above insurance is written on a claims made form, such insurance shall be endorsed to provide an extended reporting period of not less than five (5) years following the expiration or termination of the Agreement.
- 13.5 Workers' Compensation: A program of insurance providing workers' compensation benefits in an amount and form required by the California Labor

Code (or the labor code of any other applicable state), covering all persons performing Work on behalf of SUBCONTRACTOR pursuant to this Agreement and all risks to such persons under this Agreement. Such insurance shall include employer's liability coverage covering accident and disease. In respect of accident, the limit shall be no less than one million dollars (\$1,000,000), and, in respect of disease, the policy limit shall be no less than one million dollars (\$1,000,000) and one million dollars (\$1,000,000) for each employee.

- 13.6 Notification of Incidents, Claims or Suits: SUBCONTRACTOR shall report to COUNTY and KHA:
- 13.6.1. any accident or incident relating to services performed under this Agreement which involves injury or property damage which it reasonably appears may result in the filing of a claim or lawsuit against SUBCONTRACTOR and COUNTY. Such report shall be made in writing within twenty-four (24) hours of occurrence.
  - 13.6.2. any third party claim or lawsuit filed against SUBCONTRACTOR arising from or related to services performed by SUBCONTRACTOR under this Agreement. Such report shall be made in writing within twenty-four (24) hours of the earlier of receipt of service of process of such claim or lawsuit, or knowledge by SUBCONTRACTOR of such claim or lawsuit.
  - 13.6.3. any injury to a SUBCONTRACTOR staff member which occurs on COUNTY property. This report shall be submitted on a COUNTY "Non-employee Injury Report" to the COUNTY contract manager. Such report shall be made in writing within twenty-four (24) hours.
  - 13.6.4. any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of COUNTY property, monies or securities entrusted to SUBCONTRACTOR under the terms of this Agreement. Such report shall be made in writing within twenty-four (24) hours of occurrence.
- 13.7 Performance Bond: Prior to the effective date of this Agreement, SUBCONTRACTOR shall furnish to COUNTY, at SUBCONTRACTOR's own expense, a performance bond in the sum of not less than fifty percent (50%) of the total compensation due to SUBCONTRACTOR under this Agreement, payable to the County of Los Angeles and KHA, and executed by a corporate surety licensed to transact business as a surety in the State of California. Such bond shall be conditioned upon faithful performance by SUBCONTRACTOR of the terms and conditions of the Agreement, and shall be renewed to provide for continuing liability in the above amount notwithstanding any payment or recovery thereon.
- 13.8 Failure to Procure or Maintain Insurance and Performance Bond: Failure on the part of SUBCONTRACTOR to procure or maintain the required insurance and performance bond shall constitute a material breach of this Agreement upon

which COUNTY or KHA, upon notice to SUBCONTRACTOR, may terminate this Agreement.

**14. RECORDS AND AUDITS:**

- 14.1 SUBCONTRACTOR shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. SUBCONTRACTOR shall also maintain accurate and complete employment and other records relating to its performance of this Agreement. SUBCONTRACTOR agrees that COUNTY, KHA, or their respective authorized representatives, shall, with reasonable notice during regular business hours, have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or records relating to this Agreement, provided that COUNTY's or KHA's access to SUBCONTRACTOR's employment records shall be limited to access that does not constitute an unlawful invasion of the privacy rights of any SUBCONTRACTOR employee. All such material, including all financial records, time cards and other employment records, and proprietary data and information, shall be kept and maintained by SUBCONTRACTOR and shall be made available to COUNTY and KHA during the term of this Agreement and for a period of five (5) years thereafter unless written permission of both COUNTY and KHA is given to dispose of any such material prior to such time. All such material shall be maintained by SUBCONTRACTOR at a location in Los Angeles, Orange, Riverside, San Bernardino or Ventura Counties, provided that if any such material is located outside Los Angeles, Orange, Riverside, San Bernardino or Ventura Counties, then, at SUBCONTRACTOR's option, SUBCONTRACTOR shall either (a) provide COUNTY and KHA with access to such material at a mutually agreed upon location in such counties, or (b) pay COUNTY and KHA for the respective travel, per diem, and other costs incurred by them to examine, audit, excerpt, copy or transcribe such material at such other location.
- 14.2 In the event that an audit is conducted of SUBCONTRACTOR specifically regarding this Agreement by any federal or state auditor, then SUBCONTRACTOR shall file a copy of such audit report with COUNTY's Auditor-Controller and with COUNTY Project Director within thirty (30) days of SUBCONTRACTOR's receipt thereof, unless otherwise provided by applicable federal or state law or under this Agreement.
- 14.3 Failure on the part of SUBCONTRACTOR to comply with the provisions of this Paragraph 14 shall constitute a material breach of this Agreement upon which KHA or COUNTY may immediately terminate or suspend this Agreement.

15. **WARRANTY AGAINST CONTINGENCY FEES:**

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

15.2 For breach of this warranty, COUNTY shall have the right to terminate this Agreement and, in its discretion, deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

16. **INTELLECTUAL PROPERTY INDEMNIFICATION:** SUBCONTRACTOR shall indemnify, defend, and hold harmless KHA, COUNTY, and their respective officers and employees from and against any and all claims, demands, liabilities, losses, costs, and expenses, including defense costs and reasonable 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, copyright, or other rights of any third party, or any actual or alleged trade secret disclosure or misappropriation, arising from or related to the operation and utilization of SUBCONTRACTOR's work pursuant to this Agreement or to the Prime Contract. SUBCONTRACTOR shall have no obligation to KHA or COUNTY under this Paragraph 16 if any infringement claim is caused by use by COUNTY of the Integrated System other than in accordance with the Specifications and other applicable Documentation. Any legal defense pursuant to SUBCONTRACTOR's indemnification obligations under this Paragraph 16 shall be conducted by SUBCONTRACTOR and performed by counsel selected by SUBCONTRACTOR and approved by KHA and COUNTY in writing, such consent not to be unreasonably withheld. In addition, SUBCONTRACTOR shall not, without COUNTY's prior written approval, accept any settlement, or enter a plea of guilty or nolo contendere, to any charge or claim that results in other than a monetary judgment against COUNTY, which monetary judgment in any event shall not exceed SUBCONTRACTOR's ability to pay and which shall be paid by SUBCONTRACTOR.

17. **WARRANTIES:**

17.1 SUBCONTRACTOR represents, warrants, covenants, and agrees that SUBCONTRACTOR shall promptly correct any and all defects, errors, or omissions in the Tasks, Subtasks, Deliverables, and other Work provided pursuant to this Agreement in order to conform and comply with all specifications, requirements, standards, and representations set forth in this Agreement and the Exhibits attached hereto, including Exhibit B (Statement of Work).

17.2 SUBCONTRACTOR further represents, warrants, covenants, and agrees that:

- 17.2.1. SUBCONTRACTOR represents and warrants that (a) SUBCONTRACTOR has the full power and authority to enter into this Agreement and to perform all of its obligations hereunder, (b) the Work and Deliverables provided hereunder by SUBCONTRACTOR are neither subject to any liens, encumbrances, or pledges nor subordinate to any right or claim of any third party, including SUBCONTRACTOR's creditors, (c) during the term of this Agreement, SUBCONTRACTOR shall not subordinate this Agreement or any of its rights hereunder to any third party without the prior written consent of COUNTY, and without providing in such subordination instrument for non-disturbance of COUNTY's use of the Integrated System, and any part thereof in accordance with this Agreement, and (d) the performance of this Agreement by SUBCONTRACTOR will not (i) violate, in any way, any non-disclosure Agreement, or (ii) to the best of SUBCONTRACTOR's knowledge constitute any infringement or other violation of any copyright, trade secret, trademark, service mark, patent, invention, proprietary information, or other rights of any third party.
- 17.2.2. SUBCONTRACTOR shall in the performance of its obligations under this Agreement strictly comply with the specifications, requirements, standards, and representations set forth in this Agreement.
- 17.2.3. All Tasks, Subtasks, Deliverables and other Work shall be provided and performed in a timely and professional manner by qualified personnel.
- 17.2.4. All Tasks, Subtasks, Deliverables and other Work shall be completed in accordance with this Agreement and the Exhibits attached hereto, the Prime Contract, industry standards, and hardware manufacturers' specifications.
- 17.2.5. All hardware and software provided under this Agreement shall perform according to the requirements as set forth in Exhibit C (Statement of Work).
- 17.2.6. All documentation developed under this Agreement shall be uniform in appearance.
- 17.2.7. SUBCONTRACTOR shall not cause any unplanned interruption of the operations of, or accessibility to the Integrated System (as defined in the Prime Contract) or any component thereof through any Disabling Device, 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 Integrated System or any component thereof to COUNTY or any user or which could alter, destroy, or inhibit the use of the Integrated System or any component thereof, or the data contained therein, which could block



access to or prevent the use of the Integrated System or any component thereof by COUNTY or users. SUBCONTRACTOR represents, warrants and agrees that it has not purposely placed, nor is it aware of, any Disabling Device on any Integrated System component provided to COUNTY under this Agreement or under the Prime Contract, nor shall SUBCONTRACTOR knowingly permit any subsequently delivered Integrated System component to contain any Disabling Device.

**18. COMPLIANCE WITH APPLICABLE LAW:**

18.1 SUBCONTRACTOR shall comply with all applicable federal and state and local, laws, rules, regulations, ordinances, guidelines, and directives, and all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference. SUBCONTRACTOR shall have up to fifteen (15) days to correct any noncompliance with COUNTY rules, regulations, ordinances, guidelines, and directives following notice from COUNTY including written copies of the applicable of such applicable rules, regulations, ordinances, guidelines, and directives.

18.2 SUBCONTRACTOR shall indemnify, defend, and hold harmless KHA and COUNTY from and against any and all claims, demands, liabilities, losses, costs, and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, arising from or related to any violation on the part of SUBCONTRACTOR, its employees, agents or subcontractors of any such laws, rules, regulations, ordinances or directives. Any legal defense pursuant to SUBCONTRACTOR's indemnification obligations under this Paragraph 18.2 shall be conducted by SUBCONTRACTOR and performed by counsel selected by SUBCONTRACTOR and approved by COUNTY (which approval shall not be unreasonably withheld) in writing. 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 SUBCONTRACTOR fails to provide COUNTY with a full and adequate defense, as required by law or this Agreement, COUNTY shall be entitled to reimbursement for all such costs and expenses.

19. **FAIR LABOR STANDARDS:** SUBCONTRACTOR shall comply with all applicable provisions of all applicable federal fair labor standards laws, and shall indemnify and hold harmless KHA and COUNTY, their officers, employees and agents from any and all liability, including wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including the federal Fair Labor Standards Act, for Work performed by SUBCONTRACTOR's employees pursuant to this Agreement.

20. **RESTRICTIONS ON LOBBYING:** SUBCONTRACTOR and each COUNTY lobbyist or COUNTY lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by SUBCONTRACTOR, shall fully comply with COUNTY's

lobbyist ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of SUBCONTRACTOR, or any COUNTY lobbyist or COUNTY lobbying firm retained by SUBCONTRACTOR while acting on behalf of SUBCONTRACTOR with respect to COUNTY, to fully comply with COUNTY's lobbyist ordinance shall constitute a material breach of this Agreement upon which COUNTY may immediately terminate or suspend this Agreement.

**21. NONDISCRIMINATION AND AFFIRMATIVE ACTION:**

- 21.1 SUBCONTRACTOR certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally as required by applicable laws and regulations without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, in compliance with all applicable federal and state anti-discrimination laws and regulations.
- 21.2 SUBCONTRACTOR shall certify to, and comply with, the provisions of SUBCONTRACTOR's EEO certification.
- 21.3 SUBCONTRACTOR 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, or physical or mental handicap, in compliance with all applicable federal and state anti-discrimination laws and regulations. Such areas of focus shall include: 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.
- 21.4 SUBCONTRACTOR certifies and agrees that it will deal with its bidders or vendors as required by applicable laws and regulations without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap.
- 21.5 SUBCONTRACTOR certifies and agrees that it, its affiliates, subsidiaries or holding companies, will comply with all applicable federal and state laws and regulations, including:
  - 21.5.1. Title VII, Civil Rights Act of 1964;
  - 21.5.2. Section 504, Rehabilitation Act of 1973;
  - 21.5.3. Age Discrimination Act of 1975;
  - 21.5.4. Title IX, Education Amendments of 1973, as applicable; and
  - 21.5.5. Title 43, Part 17, Code of Federal Regulations, Subparts A and B;

And that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, be unlawfully excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, this Agreement or under any project, program, or activity supported by this Agreement.

- 21.6 SUBCONTRACTOR shall allow COUNTY representatives access to its employment records during regular business hours to verify compliance with the provisions of this Paragraph 21 when so requested by COUNTY; provided that COUNTY's access such employment records shall be limited to access that does not constitute an unlawful invasion of the privacy rights of any SUBCONTRACTOR employee.
- 21.7 If COUNTY finds that any of the provisions of this Paragraph 21 have been violated, such violation shall constitute a material breach of this Agreement upon which COUNTY may immediately terminate or suspend this Agreement. While COUNTY reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the federal Equal Employment Opportunity Commission that SUBCONTRACTOR has violated state or federal anti-discrimination laws or regulations shall constitute a finding by COUNTY that SUBCONTRACTOR has violated the anti-discrimination provisions of this Agreement.
- 21.8 The parties agree that in the event SUBCONTRACTOR violates the anti-discrimination provisions of this Agreement, COUNTY shall, at its option, be entitled to the sum of five hundred dollars (\$500) pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating this Agreement.
22. **STAFF PERFORMANCE WHILE UNDER THE INFLUENCE:** Subject to all applicable laws and regulations SUBCONTRACTOR shall use reasonable efforts to ensure that no employee will perform services hereunder while under the influence of any alcoholic beverage, medication, narcotic, or other substance, which might reasonably, or have been observed to, impair his/her physical or mental performance.
23. **EMPLOYMENT ELIGIBILITY VERIFICATION:** SUBCONTRACTOR warrants that it fully complies with all federal and state statutes and regulations regarding the employment of aliens and others and that all its employees performing Work under this Agreement meet the citizenship or alien status requirements set forth by federal and state statutes and regulations. SUBCONTRACTOR shall obtain, from all employees performing Work hereunder, all verification and other documentation of employment eligibility status required by federal and state statutes and regulations as they currently exist and as they may be hereafter amended. SUBCONTRACTOR shall retain all such documentation for the period prescribed by law. SUBCONTRACTOR shall indemnify and hold harmless KHA and COUNTY, their officers and employees, from and against any claims, demands, liabilities, losses, costs, and expenses, including defense costs and

legal, accounting and other expert, consulting, or professional fees, which may be assessed against SUBCONTRACTOR, KHA or COUNTY 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 hereunder.

24. **LICENSES, PERMITS, REGISTRATIONS, ACCREDITATION, AND CERTIFICATES:** SUBCONTRACTOR shall obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditation, and certificates required by all federal, state, and local laws, ordinances, rules, and regulations, which are applicable to SUBCONTRACTOR's services under this Agreement. SUBCONTRACTOR shall further ensure that all of its officers and employees who perform services hereunder, shall obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditation, and certificates which are applicable to their performance hereunder. A copy of each such license, permit, registration, accreditation, and certificate required by all applicable federal, state, and local laws, ordinances, rules, regulations, guidelines, and directives shall be provided to COUNTY in duplicate.
25. **CAPTIONS AND PARAGRAPH HEADINGS:** Captions and paragraph headings used in this Agreement are for convenience only and are not a part of this Agreement and shall not be used in construing this Agreement.
26. **WAIVER:** No waiver by COUNTY of any breach of any provision of this Agreement shall constitute a waiver of any other breach or of such provision. Failure of COUNTY to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided at law or in equity, or under this Agreement.
27. **GOVERNING LAW, JURISDICTION AND VENUE:** This Agreement shall be governed by, and construed in accordance with, the substantive and procedural laws of the state of California applicable to agreements made and to be performed within that state. KHA and SUBCONTRACTOR agree and consent to the exclusive jurisdiction of the courts of the state of California for all purposes regarding this Agreement and further agree and consent that venue of any action brought hereunder shall be exclusively in the Central District of the Superior Court for Los Angeles County.
28. **SEVERABILITY:** If any provision of this Agreement is adjudged void or invalid for any reason whatsoever, but would be valid if part of the wording thereof were deleted or changed, then such provision shall apply with such modifications as may be necessary to make it valid and effective. In the event that one or more of the provisions of this Agreement is found to be invalid, illegal or unenforceable in any respect, such provision shall be deemed deleted herefrom and the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby unless the Agreement fails of its essential purpose because of such deletion.

29. **AUTHORIZATION WARRANTY:** SUBCONTRACTOR represents and warrants that the person executing this Agreement for SUBCONTRACTOR is an authorized agent who has actual authority to bind SUBCONTRACTOR to each and every term, condition, and obligation of this Agreement and that all requirements of SUBCONTRACTOR have been fulfilled to provide such actual authority.
30. **NOTICES:** All notices or demands required or permitted to be given or made under this Agreement, unless otherwise specified, shall be in writing and shall be addressed to the parties, with a copy in all cases to COUNTY, at the following addresses and delivered: (a) by hand with signed receipt, (b) by first-class registered or certified mail, postage prepaid, (c) by facsimile or electronic mail transmission followed within twenty-four (24) hours by a confirmation copy by first-class registration or certified mail, postage prepaid, or (d) by overnight commercial or government carrier, with signed receipt. Notices or demands shall be deemed given at the time of signed receipt in the case of hand delivery, three (3) days after deposit in the United States mail as set forth above, on the date of facsimile or electronic mail transmission if followed by timely confirmation, or on the date of signature receipt by the receiving part of any overnight commercial or government carrier delivery. Addresses may be changed by either party giving ten (10) days prior written notice thereof to the other party.

If to KHA:

\_\_\_\_\_  
 \_\_\_\_\_  
 Attention: \_\_\_\_\_  
 \_\_\_\_\_  
 Facsimile: \_\_\_\_\_

With a copy to COUNTY, addressed as follows:

- (1) Jane White  
 County of Los Angeles  
 Department of Public Works  
 Traffic and Lighting Division  
 P.O. Box 1460  
 Alhambra, CA 91802-1460  
 Telephone: (626) 300-2020  
 Fax: (626) 300-4736  
 E-mail: jwhite@ladpw.org
- (2) County Counsel, Los Angeles County  
 500 West Temple Street  
 Los Angeles, CA 90012  
 Attention: Jose Silva, Esq.  
 Facsimile: (213) 617-7182

If to SUBCONTRACTOR:

\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Facsimile: \_\_\_\_\_

With a copy to COUNTY, addressed as follows:

- (1) Jane White  
County of Los Angeles  
Department of Public Works  
Traffic and Lighting Division  
P.O. Box 1460  
Alhambra, CA 91802-1460  
Telephone: (626) 300-2020  
Fax: (626) 300-4736  
E-mail: jwhite@ladpw.org
  
- (2) County Counsel, Los Angeles County  
500 West Temple Street  
Los Angeles, CA 90012  
Attention: Jose Silva, Esq.  
Facsimile: (213) 617-7182

**31. TERMINATION FOR IMPROPER CONSIDERATION:**

- 31.1 COUNTY may, by notice to SUBCONTRACTOR, immediately terminate the right of SUBCONTRACTOR to proceed under this Agreement, if it is found that consideration, in any form, was offered or given by SUBCONTRACTOR, either directly or through an intermediary, to any COUNTY officer, employee or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, amendment or extension of this Agreement or the making of any determination with respect to SUBCONTRACTOR's performance pursuant to this Agreement. In the event of such termination, COUNTY shall be entitled to pursue the same remedies against SUBCONTRACTOR as it could pursue in the event of default of SUBCONTRACTOR.
  
- 31.2 SUBCONTRACTOR shall immediately report any attempt by a COUNTY officer or employee to solicit such improper consideration. The report shall be made either to COUNTY manager charged with the supervision of the employee or to COUNTY Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.
  
- 31.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

32. **TERMINATION FOR GRATUITIES:** COUNTY may, by notice to SUBCONTRACTOR, terminate the right of SUBCONTRACTOR to proceed under this Agreement upon one (1) calendar day's notice, if it is found that gratuities in the form of entertainment, gifts, or otherwise were offered or given by SUBCONTRACTOR, or any agent or representative of SUBCONTRACTOR, to any officer, employee, or agent of COUNTY with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such contract. In the event of such termination, COUNTY shall be entitled to pursue the same remedies against SUBCONTRACTOR as it could pursue in the event of default by SUBCONTRACTOR.
33. **COUNTY'S QUALITY ASSURANCE PLAN:** COUNTY or its agent will evaluate SUBCONTRACTOR's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing SUBCONTRACTOR's compliance with all Agreement terms and performance standards. SUBCONTRACTOR deficiencies which COUNTY determines are severe or continuing and that may place performance of the Prime Contract in jeopardy if not corrected will be reported to COUNTY's Board of Supervisors. The report will include improvement and corrective action measures taken by COUNTY, KHA and SUBCONTRACTOR. If improvement does not occur consistent with the corrective action measures, COUNTY may terminate this Agreement or impose other penalties as specified in this Agreement or in the Prime Contract.
34. **SUBCONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM:**
- 34.1 SUBCONTRACTOR acknowledges that COUNTY has established a goal of ensuring that all individuals who benefit financially from 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 COUNTY and its taxpayers.
- 34.2 As required by COUNTY's child support compliance program (Los Angeles County Code Chapter 2.200) and without limiting SUBCONTRACTOR's duty under this Agreement to comply with all applicable provisions of law, SUBCONTRACTOR warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served wage and earnings withholding orders or COUNTY's Child Support Services Department (hereinafter "CSSD") notices of wage and earnings assignment for child or spousal support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).
- 34.3 Failure of SUBCONTRACTOR to maintain compliance with the requirements set forth in this Paragraph 34 shall constitute a default by SUBCONTRACTOR under this Agreement. Without limiting the rights and remedies available to COUNTY

under any other provision of this Agreement, failure to cure such default within ninety (90) days of notice by COUNTY's CSSD shall be grounds upon which COUNTY may suspend or terminate this Agreement.

35. **SUBCONTRACTOR'S ACKNOWLEDGMENT OF COUNTY'S COMMITMENT TO CHILD SUPPORT ENFORCEMENT:** SUBCONTRACTOR acknowledges that COUNTY places a high priority on the enforcement of child support laws and the apprehension of child support evaders. SUBCONTRACTOR understands that it is COUNTY's policy to encourage all COUNTY contractors and subcontractors to voluntarily post COUNTY's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at the contractor's or subcontractor's place of business. COUNTY's CSSD will supply SUBCONTRACTOR with the poster to be used.
36. **DAMAGE TO COUNTY FACILITIES, BUILDINGS, OR GROUNDS:**
- 36.1 SUBCONTRACTOR shall repair, or cause to be repaired, at its own cost, any and all damage to COUNTY facilities, buildings or grounds caused by SUBCONTRACTOR or employees or agents of SUBCONTRACTOR. Such repairs shall be made promptly after SUBCONTRACTOR has become aware of such damage, but in no event later than thirty (30) days after SUBCONTRACTOR's actual knowledge of the occurrence.
- 36.2 If SUBCONTRACTOR fails to make timely repairs during the period set forth in Subparagraph 36.1, COUNTY may make any necessary repairs. All costs incurred by COUNTY for such repairs shall be repaid by SUBCONTRACTOR by cash payment upon demand, or without limitation of all COUNTY's other rights and remedies provided at law or equity, or under this Agreement, COUNTY may deduct such costs from any amounts due to KHA from COUNTY under the Prime Contract.
- 36.3 SUBCONTRACTOR shall not in any way physically alter or improve any COUNTY facility without the prior written approval of the Director, and COUNTY's Director of Internal Services Department, in their discretion.
37. **RECYCLED-CONTENT PAPER.** Consistent with the Board of Supervisor's policy to reduce the amount of solid waste deposited at COUNTY landfills, SUBCONTRACTOR agrees to use recycled-content paper to the maximum extent possible in SUBCONTRACTOR's provision of work pursuant to this Agreement.



38. **COMPLIANCE WITH JURY SERVICE PROGRAM.**

38.1 Jury Service Program: As a subcontract under the Prime Contract, this Agreement is subject to the provisions of 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 the Jury Service Program is attached hereto as Exhibit C (Jury Service Program).

38.2 Written Employee Jury Service Policy:

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

38.2.2. For purposes of this Paragraph 39, "Contractor" means a person, partnership, corporation or other entity which has a contract with 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 SUBCONTRACTOR. "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 COUNTY, or 2) SUBCONTRACTOR has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program.

38.2.3. If SUBCONTRACTOR is not required to comply with the Jury Service Program when the Agreement commences, SUBCONTRACTOR shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and SUBCONTRACTOR shall immediately notify COUNTY if SUBCONTRACTOR at any time either comes within the Jury Service Program's definition of "Contractor" or if SUBCONTRACTOR no longer qualifies for an exception to the Jury Service Program. In either event, SUBCONTRACTOR shall immediately implement a written policy consistent with the Jury Service Program.

COUNTY may also require, at any time during the Term and at its sole discretion, that SUBCONTRACTOR demonstrate to COUNTY's satisfaction that SUBCONTRACTOR either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that SUBCONTRACTOR continues to qualify for an exception to the Jury Service Program.

38.2.4. SUBCONTRACTOR's violation of this Paragraph 39 of the Agreement may constitute a material breach of the Agreement. In the event of such material breach, COUNTY may, in its sole discretion, terminate the Agreement and/or bar SUBCONTRACTOR from the award of future COUNTY contracts for a period of time consistent with the seriousness of the breach.

### 39. **CONFIDENTIALITY:**

39.1 General. SUBCONTRACTOR shall maintain the confidentiality of all records and information, including the terms and conditions of this Agreement or events or circumstances which occur during the course of SUBCONTRACTOR's performance under this Agreement in accordance with all applicable federal, state, and local laws, regulations, ordinances, guidelines, and directives relating to confidentiality. In addition, SUBCONTRACTOR shall not reproduce, distribute, or disclose to any person or entity any information identifying, characterizing, or relating to any risk, threat, vulnerability, weakness, or problem regarding data security in COUNTY's computer systems, or to any safeguard, countermeasure, or contingency plan, policy or procedure for data security contemplated or implemented by COUNTY, without COUNTY's prior written consent. SUBCONTRACTOR shall inform all of its directors, officers, shareholders, employees, and agents providing services hereunder of the confidentiality provisions of this Agreement. SUBCONTRACTOR shall provide to COUNTY an executed Subcontractor Employee Acknowledgment, Confidentiality & Assignment Agreement (attached as Exhibit D hereto) for each of its employees performing Work under this Agreement. Notwithstanding anything herein to the contrary, SUBCONTRACTOR acknowledges and agrees that it is responsible for any breach of the obligations of confidentiality set forth herein by any person or entity to whom SUBCONTRACTOR discloses such Confidential Information.

### 39.2 Confidential Information.

39.2.1. In the performance of this Agreement or in contemplation thereof, the parties and their respective employees and agents may have access to private or Confidential Information and trade secrets owned or controlled by the other party or COUNTY and such information may contain proprietary details and disclosures. All information and data shall be plainly and prominently marked with restrictive legends identifying such

information and data as proprietary or confidential (“Confidential Information”).

39.2.2. With respect to any identifiable information concerning any person that is obtained by SUBCONTRACTOR or any other records and information, SUBCONTRACTOR shall: (a) not use any such records or information for any purpose whatsoever other than carrying out the express terms of this Agreement; (b) promptly transmit to COUNTY all requests for disclosure of any such records or information; (c) not disclose, except as otherwise specifically permitted by this Agreement, any such records or information to any person or organization other than COUNTY without COUNTY’s prior written authorization that the records are, or information is, releasable; and (d) at the expiration or termination of this Agreement, return all such records and information to COUNTY or maintain such records and information according to the written procedures sent to SUBCONTRACTOR by COUNTY for this purpose.

39.2.3. Without limiting the generality of Subparagraph 39.2.2, in the event SUBCONTRACTOR receives any court or administrative agency order, service of process, or request by any person or entity (other than SUBCONTRACTOR’s professionals) for disclosure of any such details, SUBCONTRACTOR shall immediately notify COUNTY Project Director. Thereafter, SUBCONTRACTOR shall comply with such order, process or request only to the extent required by applicable law. Notwithstanding the preceding sentence, to the extent permitted by law, SUBCONTRACTOR shall delay such compliance and cooperate with COUNTY to obtain relief from such obligations to disclose until COUNTY shall have been given a reasonable opportunity to obtain such relief.

39.3 Limitation of COUNTY Obligations. Notwithstanding any other provision of this Agreement, COUNTY shall not be obligated in any way under this Agreement for any disclosure of Confidential Information which COUNTY is required to make under the California Public Records Act or otherwise by law.

40. **CONSIDERATION OF GAIN AND GROW PROGRAM PARTICIPANTS FOR EMPLOYMENT:** Should SUBCONTRACTOR require additional or replacement personnel after the effective date of this Agreement, SUBCONTRACTOR shall give consideration for any such employment openings to participants in COUNTY’s Department of Public Social Services’ greater avenues for independence (GAIN) general relief opportunity for work (GROW) programs, who meet SUBCONTRACTOR’s minimum qualifications for the open position. For this purpose, consideration shall mean that SUBCONTRACTOR will interview qualified candidates. COUNTY will refer GAIN and GROW participants by job category to SUBCONTRACTOR. In the event that both COUNTY laid-off employees and GAIN/GROW participants are available for hiring, COUNTY employees shall be given first priority.

41. **FEDERAL EARNED INCOME CREDIT:** SUBCONTRACTOR shall 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 1015.
42. **SUBCONTRACTOR RESPONSIBILITY AND DEBARMENT:**
- 42.1 A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform this Agreement. It is COUNTY's policy to conduct business only with responsible contractors.
- 42.2 SUBCONTRACTOR is hereby notified that this Agreement is a contract subject to Chapter 2.202 of the Los Angeles County Code, as may be amended during the term of this Agreement.
43. **NONDISCRIMINATION IN SERVICES:** SUBCONTRACTOR shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age, or physical or mental handicap, in accordance with all applicable requirements of federal and state law. For the purpose of this Paragraph 43 (Nondiscrimination in Services), discrimination in the provision of services may include the following: denying any person any service or benefit or the availability of the facility, providing any service or benefit to any person which is not equivalent or is not provided in an equivalent manner or at an equivalent time to that provided to others; subjecting any person to segregation or separate treatment in any manner related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirements or conditions which persons must meet in order to be provided any service or benefit.
44. **SAFELY SURRENDERED BABY LAW:** SUBCONTRACTOR shall notify and provide to its employees residing in or working in the state of California information 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 available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.
45. **ENTIRE AGREEMENT:** The body of this Agreement and the Exhibits hereto constitutes the complete and exclusive statement of understanding between KHA and SUBCONTRACTOR which supersedes all previous agreements, written or oral, and all communications relating to the subject matter of this Agreement.
46. **CONSTRUCTION:** Whenever examples are used in this Agreement with the words "including," "for example," "e.g.," "such as," "etc.," or any derivation of such words, such examples are intended to be illustrative and not limiting.



**SUBCONTRACT AGREEMENT TO  
COUNTY AGREEMENT NUMBER \_\_\_\_\_**

IN WITNESS WHEREOF, KHA and SUBCONTRACTOR have caused this Agreement to be subscribed by their duly authorized officers on the day, month and year first above written.

**KHA**

**SUBCONTRACTOR**

**Kimley-Horn and Associates, Inc.**

*[Name of Subcontractor]*

By \_\_\_\_\_  
Name:  
Title:

By \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A to  
EXHIBIT H (SAMPLE SUBCONTRACT)**

**ADDITIONAL TERMS AND CONDITIONS**

(To be prepared by KHA  
and SUBCONTRACTOR)

**EXHIBIT B to  
EXHIBIT H (SAMPLE SUBCONTRACT)**

**STATEMENT OF WORK**

(To be prepared by KHA  
and SUBCONTRACTOR)



**EXHIBIT C to  
EXHIBIT H (SAMPLE SUBCONTRACT)**

**JURY SERVICE PROGRAM**

# LOS ANGELES COUNTY CODE

## Title 2 ADMINISTRATION

### Chapter 2.203 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.
- D. “Full time” means 40 hours or more worked per week, or a lesser number of hours if the lesser number is a recognized industry standard as determined by the chief administrative officer.
- E. “County” means the county of Los Angeles or any public entities for which the board of supervisors is the governing body. (Ord. 2002-0015 § 1 (part), 2002)

### **2.203.030 Applicability.**

This chapter shall apply to contractors who enter into contracts that commence two or more months after the effective date of this chapter. This chapter shall also apply to contractors with existing contracts which are extended into option years that commence two or more months after the effective date of this chapter. (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 Other Provisions.**

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)

**EXHIBIT D to  
EXHIBIT H (SAMPLE SUBCONTRACT)**

**SUBCONTRACTOR EMPLOYEE ACKNOWLEDGMENT,  
CONFIDENTIALITY & ASSIGNMENT AGREEMENT**

**CONTRACTOR'S EMPLOYEE ACKNOWLEDGEMENT,  
CONFIDENTIALITY & ASSIGNMENT OF RIGHTS**

AGREEMENT NAME & NUMBER: \_\_\_\_\_

CONTRACTOR/EMPLOYER NAME: \_\_\_\_\_

**GENERAL INFORMATION:**

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

**EMPLOYEE ACKNOWLEDGEMENT:**

I understand and agree that the Contractor referenced above is my sole employer for purposes of the above referenced Agreement. 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 Agreement.

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 Agreement. 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.

**CONFIDENTIALITY AGREEMENT:**

You may be involved with Work pertaining to services provided by the County of Los Angeles and, if so, you may have access to confidential data and information. In addition, you 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. If you are to be involved in County Work, the County must ensure that you, too, will protect the confidentiality of such data and information. Consequently, you must sign this Agreement as a condition of your Work to be provided by your employer for the County. Please read this Agreement and take due time to consider it prior to signing.

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 Agreement 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 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 violation of the Agreement by myself and/or by any other person of which I become aware. I agree to return all confidential materials to my immediate supervisor upon completion of this Agreement, or termination of my employment with my employer, whichever occurs first.

#### ASSIGNMENT OF PROPRIETARY RIGHTS:

As used in this Agreement, "Works" means (i) any inventions, trade secrets, ideas, original works of authorship or Confidential Information (as defined below) that I conceive, develop, discover or make in whole or in part during my employment with Contractor which relates to the Agreement, (ii) any inventions, trade secrets, ideas, original works of authorship or Confidential Information (as defined below) that I conceive, develop, discover or make in whole or in part during or after my employment with Contractor which are made through the use of any of Contractor's equipment, facilities, supplies, trade secrets or time, or which result from any work I perform for Contractor, and (iii) any part or aspect of any of the foregoing. "Confidential Information" means all information or material disclosed to or known by me as a consequence of my employment with Contractor, including third party information or information disclosed by County that Contractor treats as confidential, and any information disclosed to or developed by me or embodied in or relating to the Works.

All Works shall belong exclusively to Contractor whether or not fixed in a tangible medium of expression. Without limiting the foregoing, to the maximum extent permitted under applicable law, all Works shall be deemed to be "works made for hire" under the United States Copyright Act, and Contractor shall be deemed to be the author thereof.

If and to the extent any Works are determined not to constitute "works made for hire," or if any rights in the Works do not accrue to Contractor as a work made for hire, I irrevocably assign and transfer to Contractor to the maximum extent permitted by law all right, title and interest in the Works, including but not limited to all copyrights, patents, trade secret rights, and other proprietary rights in or relating to the Works. Without limiting the foregoing, I irrevocably assign and transfer to Contractor all economic rights to the Works, including without limitation the exclusive and unrestricted right to reproduce, manufacture, use, adapt, modify, publish, distribute, sublicense, publicly perform and communicate, translate, lease, import, export, transfer, convey and otherwise exploit the Works.

I expressly acknowledge and agree that I wish to remain anonymous and not to have my name or any pseudonym used in connection with the Works.

I expressly approve any and all modifications, uses, publications and other exploitation of the Works that Contractor or any successor or transferee of Contractor may elect to make, and I expressly agree that no such modifications, uses, publications or exploitations will or may cause harm to my honor or reputation, or will be deemed to constitute a distortion or mutilation of the Works.

I agree to provide any assistance reasonably requested by Contractor, now and in the future, to obtain United States or foreign letters patent and copyright registrations covering inventions and original works of authorship belonging or assigned to Contractor. I shall execute any transfers of ownership of letters patent or assignments of copyrights or other proprietary rights transferred or assigned hereunder (including short form assignments intended for recording with the U.S. Copyright Office, the U.S. Patent and Trademark Office, or any other entity). If Contractor is unable for any reason whatsoever, including my mental or physical incapacity, to secure my signature to apply for or to pursue any application for any United States or foreign letters patent or copyright registrations or on any document transferring or assigning any patent, copyright or other proprietary right that I am obligated to transfer or assign, I irrevocably designate and appoint Contractor and its duly authorized officers and agents as my agent and attorney in fact, to act for and on its behalf and stead to execute and file any such applications and documents and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations or transfers or assignments thereof or of any other proprietary rights with the same legal force and effect as if executed by me. This appointment is coupled with an interest and is irrevocable.

This Agreement shall be construed in accordance with the provisions of Section 2870 of the California Labor Code (the text of which follows) relating to inventions made by an employee. Accordingly, this Agreement is not intended and shall not be interpreted to assign to or vest in Contractor any of my rights in any inventions developed entirely on my own time without using Contractor's equipment, supplies, facilities, or trade secret information, except for those inventions that either relate at the time of conception or reduction to practice of the invention to Contractor's business or the actual or demonstrably anticipated research or development of Contractor, or result from any work I performed for Contractor.

California Labor Code Section 2870. Employment Agreements; Assignment of Rights

(a) Any provision in an employment agreement which provides that an employee shall assign or offer to assign any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.



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.

Signed: \_\_\_\_\_ Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

Printed: \_\_\_\_\_

Position: \_\_\_\_\_

IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_

[\_\_\_\_\_], 2004

The County of Los Angeles  
Department of Public Works  
Traffic and Lighting Division  
P.O. Box 1460  
Alhambra, CA 91802-1460  
Attention: Jane White

Ladies and Gentlemen:

At the request and for the account of Kimley-Horn and Associates, Inc. (the "Obligor"), Wachovia Bank, National Association ("we" or "Issuing Bank") hereby establishes, in accordance with the terms and conditions hereinafter set forth, this Irrevocable Standby Letter of Credit (this "Standby Letter of Credit") in favor of The County of Los Angeles, as beneficiary ("you" or "Beneficiary"), for drawings up to the Maximum Credit (defined below) available under this Standby Letter of Credit, effective immediately.

This Standby Letter of Credit is presentable at Wachovia Bank, National Association, Standby Letter of Credit Department address is: 401 Linden Street, 1st Floor Winston-Salem, NC 27101. Telephone number 800-776-3862 or at any Wachovia Bank, National Association location providing that the County of Los Angeles gives written instructions to such location, to forward the documents to the Standby Letter of Credit Department. The County of Los Angeles must also fax the drawing documents to 336-735-0950 the same day.

Drawings on this Standby Letter of Credit are available upon presentation to us of the documents described in Paragraph 4 hereof in the manner described in Paragraph 5 hereof.

Except as expressly stated herein, this undertaking is not subject to any agreement, requirement or qualification. The obligation of Issuing Bank, under this Standby Letter of Credit is the individual obligation of Issuing Bank, and is in no way contingent upon reimbursement with respect thereto.

For information and reference only, we are informed that this Standby Letter of Credit secures the obligations of the Obligor under the Traffic Control System Agreement for the Los Angeles County Department of Public Works, Los Angeles County Agreement Number [\_\_\_\_], dated [\_\_\_\_\_], 2004, (the "TCS Agreement"), by and among you and the Obligor.

We expressly waive notice of any change or amendment to any of the terms, obligations or conditions of the TCS Agreement.

1. Expiration. This Standby Letter of Credit shall expire on the earliest of the following (the "Stated Termination Date"):

(a) At 5:00 p.m., Eastern Standard Time, on [\_\_\_\_\_, 200\_\_] (the "Expiry Date"); or

(b) The date on which we receive your certificate in the form of Annex B hereto appropriately completed, together with this Standby Letter of Credit; or

(c) The date on which we honor a drawing which when added to all other drawings honored hereunder in the aggregate equals the Maximum Credit (defined below)

; provided, however that this letter of credit that shall be deemed automatically extended without written amendment for one year from the present or any future expiry date unless at least thirty (30) days prior to such expiration date, we send the beneficiary notice in writing that we elect not to extend this letter of credit beyond the initial expiry date or any extended date thereof.

2. Maximum Credit. The maximum aggregate credit available under this Standby Letter of Credit is [\_\_\_\_\_] (\$[\_\_\_\_]) (the "Maximum Credit"), which Maximum Credit shall be reduced from time to time as provided in Paragraph 3 hereof.

3. Reduction in the Maximum Credit. The Maximum Credit shall be reduced automatically from time to time upon our honoring a drawing under this Standby Letter of Credit, by an amount equal to the amount of such drawing.

4. Documents to be Presented. Funds under this Standby Letter of Credit are available to you against your draft drawn on us, duly endorsed on its reverse side by the beneficiary in an amount not exceeding the Maximum Credit stating on its face "drawn under Wachovia Bank, National Association, Irrevocable Standby Letter of Credit No. \_\_\_\_\_," accompanied by a certificate signed by you in the form of Annex A hereto appropriately completed.

5. Method and Notice of Presentment.

(a) The draft required by Paragraph 4 (a "demand for payment") may be delivered to us in the form of facsimile transmission to us (current facsimile no. (336) 735-0950), with prior telephone notice to us (current telephone no. (800) 776-3862) (or such other facsimile or telephone numbers as we may advise you in writing), and with original executed draft certificates, prominently marked to indicate that they are confirmations, to follow promptly thereafter to our location's address listed above. A demand for payment shall be deemed to have been presented on the date actually received by us. As used herein, "Business Day" means any day that is not a Saturday, Sunday or legal holiday on which Issuing Bank or any office of Issuing Bank at which requests for funds hereunder are required to be presented are authorized to remain closed. If this Standby Letter of Credit would otherwise expire on a day which is not a Business Day, this Standby Letter of Credit shall expire on the next Business Day.

(b) With regard to such demand for payment, telephonic notice (to (800) 776-3862) stating the method of presentment and the amount of the demand for payment shall be

given by you to us at or prior to the time such demand for payment is sent by you; provided, however, that failure to give such notice shall not affect our obligations hereunder.

6. Time and Method for Payment.

(a) If demand for payment is made in strict conformity with the terms and conditions hereof and in the event that the documents to be presented by you hereunder are presented by you by any means permitted under Paragraph 5(a) hereof to us prior to 4:00 p.m., Eastern Standard Time, on any Business Day, then payment shall be made to you, in accordance with your payment instructions, not later than 1:00 p.m., Eastern Standard Time, on the first Business Day following such presentment. In the event that presentment was made after 4:00 p.m., Eastern Standard Time, then payment shall be made to you in accordance with your payment instructions, not later than 1:00 p.m., Eastern Standard Time, on the second Business Day following such presentment.

(b) Payment under this Standby Letter of Credit shall be made in immediately available funds by wire transfer or such other manner as shall be agreed upon by you and us.

7. Multiple Drawings. Multiple drawings may be made hereunder.

8. Transferability. This Standby Letter of Credit is not transferable.

9. Governing Law and Customs. This Standby Letter of Credit, except as otherwise expressly stated herein, is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce, Publication No. 500 (the “UCP”) and, to the extent consistent with the UCP and the express provisions hereof, the laws of the State of California; provided that, notwithstanding anything contained in Article 17 of the UCP to the contrary, if you may properly draw on this Standby Letter of Credit during an interruption of business as described in said Article, then we shall be specifically authorized and agree to effect payment in accordance with such drawing on the first Business Day following resumption of business. In addition, anything to the contrary in Article 41 of the UCP notwithstanding, this Standby Letter of Credit is intended to remain in full force and effect until it expires in accordance with its terms. Any failure by you to draw upon this Standby Letter of Credit when you are entitled to do so in accordance with Paragraphs 4 and 5 hereof shall not cause this Standby Letter of Credit to be unavailable for any future drawing in accordance with Paragraphs 4 and 5 hereof.

10. Irrevocability. This Standby Letter of Credit is irrevocable.

11. No Negotiation. Drawings under this Standby Letter of Credit shall be presented directly to us and shall not be negotiated.

12. Complete Agreement. This Standby Letter of Credit, including the Annexes hereto, sets forth in full the terms of our undertaking. Reference in this Standby Letter of Credit to other documents or instruments is for identification purposes only and such reference shall not modify or affect the terms hereof or cause such documents or instruments to be deemed incorporated herein.

We hereby agree with you to honor your demand for payment presented in strict compliance with the terms and conditions of this Standby Letter of Credit.

Very truly yours,

WACHOVIA BANK, NATIONAL  
ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ANNEX A

DRAWING CERTIFICATE

[Issuing Bank]  
[Address]  
[CityStateZip]  
Attention: \_\_\_\_\_

Re: Irrevocable Standby Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

The undersigned, the duly authorized representative of The County of Los Angeles (the "Beneficiary"), hereby certifies to Wachovia Bank, National Association (the "Bank"), with reference to the Bank's Irrevocable Standby Letter of Credit No. \_\_\_\_\_ (the "Standby Letter of Credit") (any capitalized term used herein and not defined herein shall have the meaning given to such term in the Standby Letter of Credit) issued by the Bank in favor of the Beneficiary, that:

(1) The Beneficiary is entitled to make this drawing in the amount being drawn pursuant to the terms of that certain Traffic Control System Agreement for the Los Angeles County Department of Public Works, Los Angeles County Agreement Number [\_\_\_\_], dated [\_\_\_\_], 2004, by and among the Beneficiary and Kimley-Horn and Associates, Inc.

(2) Demand is hereby made under the Standby Letter of Credit for \$\_\_\_\_\_, which amount does not exceed the Maximum Credit available under the Standby Letter of Credit.

(3) Upon your honoring the draw requested hereunder, the Maximum Credit available under the Standby Letter of Credit shall be reduced to \$\_\_\_\_\_.

IN WITNESS WHEREOF, the Beneficiary has executed and delivered this Certificate as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

THE COUNTY OF LOS ANGELES

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ANNEX B

CANCELLATION CERTIFICATE

[Issuing Bank]  
[Address]  
[CityStateZip]  
Attention: \_\_\_\_\_

Re: Irrevocable Standby Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

The undersigned, the duly authorized representative of The County of Los Angeles (the "Beneficiary"), hereby certifies to Wachovia Bank, National Association (the "Bank") with respect to the above-referenced Irrevocable Standby Letter of Credit (the "Standby Letter of Credit") issued by the Bank in favor of the Beneficiary, that:

(1) The obligation of Kimley-Horn and Associates, Inc. (the "Obligor") under that certain Traffic Control System Agreement for the Los Angeles County Department of Public Works, Los Angeles County Agreement Number [\_\_\_\_], dated [\_\_\_\_], 2004, by and among the Beneficiary and the Obligor, to have the Standby Letter of Credit issued for the benefit of the Beneficiary has terminated.

(2) We are delivering herewith the Standby Letter of Credit for cancellation.

IN WITNESS WHEREOF, the Beneficiary has executed and delivered this Certificate as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

THE COUNTY OF LOS ANGELES

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CONTRACTOR'S EMPLOYEE ACKNOWLEDGEMENT,  
CONFIDENTIALITY & ASSIGNMENT OF RIGHTS**

AGREEMENT NAME & NUMBER: \_\_\_\_\_

CONTRACTOR/EMPLOYER NAME: \_\_\_\_\_

**GENERAL INFORMATION:**

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

**EMPLOYEE ACKNOWLEDGEMENT:**

I understand and agree that the Contractor referenced above is my sole employer for purposes of the above-referenced Agreement. 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 Agreement.

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 Agreement. 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.

**CONFIDENTIALITY AGREEMENT:**

You may be involved with Work pertaining to services provided by the County of Los Angeles and, if so, you may have access to confidential data and information. In addition, you 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. If you are to be involved in County Work, the County must ensure that you, too, will protect the confidentiality of such data and information. Consequently, you must sign this Agreement as a condition of your Work to be provided by your employer for the County. Please read this Agreement and take due time to consider it prior to signing.

I hereby agree that I will not divulge to any unauthorized person any data or information identified in writing by the County as confidential obtained from the County while performing Work pursuant to the above-referenced Agreement between my employer and the County of Los Angeles. I agree to forward all requests for the release of any such confidential data or information received by me to my employer



I agree to use reasonable commercial efforts 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 and is identified in writing as being confidential, I shall use reasonable commercial efforts to keep such information confidential.

I agree to report to my employer any and all violations of the Agreement by myself and/or by any other employee or subcontractor of my employer of which I become aware. I agree to return all confidential materials to my employer upon completion of this Agreement, or termination of my employment with my employer, whichever occurs first.

#### ASSIGNMENT OF PROPRIETARY RIGHTS:

As used in this Agreement, "Works" means (i) any inventions, trade secrets, ideas, original works of authorship or Confidential Information (as defined below) that I conceive, develop, discover or make in whole or in part during my employment with Contractor which relates to the Agreement, (ii) any inventions, trade secrets, ideas, original works of authorship or Confidential Information (as defined below) that I conceive, develop, discover or make in whole or in part during or after my employment with Contractor which are made through the use of any of Contractor's equipment, facilities, supplies, trade secrets or time, or which result from any work I perform for Contractor, and (iii) any part or aspect of any of the foregoing. "Confidential Information" means all information or material disclosed to or known by me as a consequence of my employment with Contractor, including third party information or information disclosed by County that Contractor treats as confidential, and any information disclosed to or developed by me or embodied in or relating to the Works.

All Works shall belong exclusively to Contractor whether or not fixed in a tangible medium of expression. Without limiting the foregoing, to the maximum extent permitted under applicable law, all Works shall be deemed to be "works made for hire" under the United States Copyright Act, and Contractor shall be deemed to be the author thereof.

If and to the extent any Works are determined not to constitute "works made for hire," or if any rights in the Works do not accrue to Contractor as a work made for hire, I irrevocably assign and transfer to Contractor to the maximum extent permitted by law all right, title and interest in the Works, including but not limited to all copyrights, patents, trade secret rights, and other proprietary rights in or relating to the Works. Without limiting the foregoing, I irrevocably assign and transfer to Contractor all economic rights to the Works, including without limitation the exclusive and unrestricted right to reproduce, manufacture, use, adapt, modify, publish, distribute, sublicense, publicly perform and communicate, translate, lease, import, export, transfer, convey and otherwise exploit the Works.

I expressly acknowledge and agree that I wish to remain anonymous and not to have my name or any pseudonym used in connection with the Works.

I expressly approve, for purposes of this assignment of rights only, any and all modifications, uses, publications and other exploitation of the Works that Contractor or any successor or transferee of Contractor may elect to make, and I expressly agree that no such

modifications, uses, publications or exploitations will or may cause harm to my honor or reputation, or will be deemed to constitute a distortion or mutilation of the Works. Provided, however, that any modifications or uses for any purpose other than that expressly contemplated by the agreement between my employer and the County shall be at the sole risk of the user and without risk or liability to me.

I agree to provide any assistance reasonably requested by Contractor, now and in the future, to obtain United States or foreign letters patent and copyright registrations covering inventions and original works of authorship belonging or assigned to Contractor. I shall execute any transfers of ownership of letters patent or assignments of copyrights or other proprietary rights transferred or assigned hereunder (including short form assignments intended for recording with the U.S. Copyright Office, the U.S. Patent and Trademark Office, or any other entity). If Contractor is unable for any reason whatsoever, including my mental or physical incapacity, to secure my signature to apply for or to pursue any application for any United States or foreign letters patent or copyright registrations or on any document transferring or assigning any patent, copyright or other proprietary right that I am obligated to transfer or assign, I irrevocably designate and appoint Contractor and its duly authorized officers and agents as my agent and attorney in fact, to act for and on its behalf and stead to execute and file any such applications and documents and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations or transfers or assignments thereof or of any other proprietary rights with the same legal force and effect as if executed by me. This appointment is coupled with an interest and is irrevocable.

This Agreement shall be construed in accordance with the provisions of Section 2870 of the California Labor Code (the text of which follows) relating to inventions made by an employee. Accordingly, this Agreement is not intended and shall not be interpreted to assign to or vest in Contractor any of my rights in any inventions developed entirely on my own time without using Contractor's equipment, supplies, facilities, or trade secret information, except for those inventions that either relate at the time of conception or reduction to practice of the invention to Contractor's business or the actual or demonstrably anticipated research or development of Contractor, or result from any work I performed for Contractor.

California Labor Code Section 2870. Employment Agreements; Assignment of Rights

(a) Any provision in an employment agreement which provides that an employee shall assign or offer to assign any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception (or reduction to practice of the invention to the employer's business or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

Signed: \_\_\_\_\_ Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

Printed: \_\_\_\_\_

Position: \_\_\_\_\_

**TASK/DELIVERABLE ACCEPTANCE CERTIFICATE**

(Name and Address)	TRANSMITTAL DATE
<b>TASK/DELIVERABLE ACCEPTANCE CERTIFICATE</b>	CONTRACT NUMBER
	TITLE
<b>FROM:</b>  _____ KHA Project Director (Signature Required)	<b>TO:</b> Jane White County Project Director Department of Public Works
KHA hereby certifies to County that as of the date of this Task/Deliverable Acceptance Certificate, it has satisfied all conditions precedent in the Agreement, including the Exhibits thereto to the completion of the Tasks and delivery of the Deliverables set forth below, including satisfaction of the completion criteria applicable to such Tasks and Deliverables and County's approval of the Work performed in connection with the achievement of such Task. KHA further represents and warrants that the Work performed in respect of such Tasks and Deliverables has been completed in accordance with the Exhibit B (Statement of Work). County's approval and signature constitutes an acceptance of the Tasks and Deliverables listed below.	
<b>TASK DESCRIPTION</b> (including Task and subtask numbers as set forth in the Statement of Work)	<b>DELIVERABLES</b> (including Deliverable numbers as set forth in the Statement of Work)
<b>Comments:</b>  _____  _____	
Attached hereto is a copy of all supporting documentation required pursuant to the Agreement and Exhibit B (Statement of Work), including any additional documentation reasonably requested by County.	
<b>County Acceptance:</b>  NAME _____ SIGNATURE _____ DATE _____ County Project Director	

Distribution:  
 Original – Financial Services  
 Copy 1 - Contractor

Copy 2 - County Project Manager  
 Copy 3 - DPW Master Contract File



JAMES A. NOYES, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
Telephone: (626) 458-5100  
www.ladpw.org

ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE  
REFER TO FILE: T-6

June 3, 2004

TO: Each Supervisor

FROM: James A. Noyes  
Director of Public Works

### **ADVANCE NOTIFICATION - INTENT TO NEGOTIATE WITH VENDOR AND FILE A REQUEST TO AWARD A TRAFFIC CONTROL SYSTEM AGREEMENT**

#### Notification

This memorandum provides advance notification to your Board that we intend to conduct contract negotiations with Kimley-Horn and Associates, Inc. (Kimley-Horn), for the acquisition, installation, and maintenance of a traffic control system in the unincorporated area of the County. If negotiations are successful, we will seek your Board's approval of the agreement. It is anticipated that the maximum contract sum will not exceed \$2,500,000. Funds would be provided by the Los Angeles County Metropolitan Transportation Authority (Metro) Grant for the San Gabriel Valley Traffic Signal Forum (86 percent) and by the County of Los Angeles Proposition C Local Return Matching Funds (14 percent).

#### Purpose

This agreement would provide for installation and maintenance of the Kimley-Horn KITS product for traffic signals in the unincorporated areas of the County. Since 1995, we have administered Intelligent Transportation System (ITS) projects on behalf of three subregional areas of the County. The primary system component of these projects is a traffic control system that allows traffic signals to be monitored and controlled from a remote location, such as a traffic management center, city hall, or maintenance yard. The agreement will include a Countywide license, as well as a negotiated price list for other government agencies within the County to purchase this system for their traffic signals.

TNL

Metro has provided us with grant funding to administer ITS projects. Metro's deadline to expend these grants is June 30, 2005. The traffic control system is the critical component of the entire ITS program, and any delay in its procurement would jeopardize our ability to expend these grant funds by this deadline.

Once installed, this traffic control system would interface with the County's Information Exchange Network (IEN), thereby allowing for the exchange of arterial traffic data and information between the cities, Caltrans, and the County. This information sharing would provide for implementation of arterial traffic management strategies and coordinated traffic signal operations. It would also enable agencies to work together to reduce response time during traffic incidents and emergencies. This type of capability to monitor and control the operation of traffic signals between jurisdictions would serve to benefit the motorists and transit users who rely on the arterial highways.

#### Procurement Process and Background

On October 23, 2003, we filed an advance notice with your Board (copy attached) of our intent to conduct contract negotiations with Econolite Control Products, Inc. (Econolite), for the procurement of its traffic control system. As summarized in the attached notice, our Traffic and Lighting Division previously conducted an extensive evaluation of commercial off-the-shelf traffic control systems prior to recommending the commencement of contract negotiations with Econolite. Although a formal request for proposal was not issued, a competitive process was employed that considered all potential traffic control systems capable of serving our needs. This process included an evaluation of 16 potential vendors. Of the initial 16 vendors, nine were invited to conduct system demonstrations. Upon completion of the demonstrations, the list was narrowed to five vendors, all of which were further evaluated by our staff with hands-on testing. Upon completion of the hands-on testing, we further narrowed the list to two possible vendors, Econolite and Kimley-Horn, and conducted site visits to jurisdictions operating these systems. The site visits confirmed that the systems of the two top-ranked vendors were superior to the other systems evaluated.

Prior to entering into negotiations with Econolite, we obtained preliminary price estimates from these vendors in August 2002. Although the total estimates were similar, there were substantial differences in several components of these prices. For example, the proposed license fee for Econolite was more than Kimley-Horn's proposed license fee. Kimley-Horn, on the other hand, proposed additional amounts for professional services to modify and implement its system.

During our negotiations with Econolite, we have had detailed discussions regarding our requirements and proposed modifications to its off-the-shelf system. As a result, we recently obtained a final offer from Econolite that was a substantial increase from the quote originally provided in August 2002. We now believe there is a substantially lower cost system available. Therefore, we wish to commence negotiations with Kimley-Horn.

Since our initial investigation, Kimley-Horn has upgraded its traffic control system, and we believe that approximately half of our original proposed modifications have now been incorporated into its off-the-shelf product, thereby reducing the number of required customizations. Kimley-Horn has also made additional enhancements to its KITS product system. Due to the upgrades that Kimley-Horn has made to its system, the KITS product more closely meets our needs.

We have continued to monitor the traffic control system industry for recent advances in technology among the potential vendors that might impact our ranking of Econolite and Kimley-Horn as the two top-ranked systems. We have determined that only one potential vendor, TransCore ITS, Inc. (TransCore), has recently made substantial revisions and improvements to its traffic control system, known as Transuite. However, based upon our knowledge of the traffic control system industry in general, and our familiarity with TransCore's business practices and pricing policies resulting from our experience in dealing with TransCore in connection with its development of the County's Information Exchange Network (IEN) project (for which the County currently has executed contracts with TransCore at a total cost of over \$4.1 million), we believe that TransCore would not be able to license, implement, and service the Transuite product at a cost that would result in a significant savings to the County.

Moreover, we have not had an opportunity to conduct a thorough evaluation of the Transuite system since such revisions and improvement were made, nor have we ever engaged in any negotiations or discussions with TransCore for the acquisition, implementation, or support of the Transuite system. We believe that a thorough evaluation of the Transuite system, as well as conducting initial negotiations with TransCore to obtain price estimates for the acquisition, implementation, and support of the Transuite system, would take a minimum of 3 to 4 months, and potentially significantly longer. In light of the foregoing, and the upcoming deadlines with respect to project funding sources discussed in prior sections of this memorandum, we have concluded that consideration of TransCore among the top-ranked vendors for the traffic control system is not feasible at this time.

Each Supervisor  
June 3, 2004  
Page 4

For these reasons, we believe it would be in the best interest of the County to suspend negotiations with Econolite at this time and enter into negotiations with Kimley-Horn. We will continue to work with County Counsel and outside legal counsel that specializes in technology/software contracts to negotiate and develop this agreement. We are also continuing to work with the Chief Information Office to review our purchase.

JJW: sy

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Attach.

cc: Chief Information Office (Howard Baker)  
County Counsel (Jose Silva, Victoria Mansourian)  
Executive Office

bc: Diane Lee  
Chief Information Office (Ayala)





# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"Enriching Lives"*

JAMES A. NOYES, Director

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ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE  
REFER TO FILE: T-6

October 23, 2003

TO: Each Supervisor

FROM: James A. Noyes  
Director of Public Works

### **ADVANCE NOTIFICATION - INTENT TO NEGOTIATE WITH VENDOR AND FILE A REQUEST TO AWARD A TRAFFIC CONTROL SYSTEM AGREEMENT**

#### **NOTIFICATION**

This memo provides advance notification to your Board that we intend to conduct contract negotiations with Econolite Control Products, Inc., for the procurement, installation, and system support for the traffic control system in the unincorporated area of the County. If negotiations are successful, we will file a request with the Executive Office for your Board's approval of the agreement. It is anticipated that the agreement will be for a not-to-exceed cost of \$2,500,000. Funds will be provided by the Los Angeles County Metropolitan Transportation Authority (MTA) Grant for the San Gabriel Valley Traffic Signal Forum (86 percent) with County of Los Angeles Proposition C Local Return Matching Funds (14 percent).

#### **PURPOSE**

Since 1995, we have administered Intelligent Transportation System (ITS) projects on behalf of three subregional areas of the County. The primary system component of these projects is a traffic control system that allows traffic signals to be monitored and controlled from a remote location, such as a traffic management center, city hall, or a maintenance yard. This agreement will provide for procurement, installation, and system support of the Econolite Pyramids product for traffic signals in the unincorporated areas of the County. The agreement will also include a Countywide license and negotiated price list for other agencies in the County that purchase this system for their traffic signals.

WJW

**T & L DIVISION**

MTA has provided us with grant funding to administer ITS projects. MTA's deadline to expend these grants is June 30, 2005. The traffic control system is the critical component of the entire ITS program, and any delay in procurement will jeopardize our ability to expend these grant funds by this deadline.

This traffic control system will provide for continuous monitoring of traffic conditions and traffic signal operations and build upon the benefits achieved by the traffic signal synchronization projects currently underway by us. The system will provide once-per-second monitoring of traffic signals. Traffic signal monitoring will provide my engineering staff with immediate notification of signal malfunctions, thereby enabling faster and more efficient maintenance responses. The system also enables traffic signal timing to be controlled and coordinated from remote workstations to adjust to actual traffic conditions. Currently, my maintenance staff can only change traffic signal timing at the actual traffic signal location. The traffic control system will provide two-way communications and control functions between the traffic signal controllers and staff's workstations.

Once installed, this traffic control system will interface with the County's Information Exchange Network, thereby allowing for the exchange of arterial traffic data and information between the cities, Caltrans, and us. This information sharing will provide for implementation of arterial traffic management strategies and coordinated traffic signal operations. It also enables agencies to work together to reduce response time during incidents and emergencies. This capability to monitor and control the operation of traffic signals between jurisdictions will benefit the motorists and transit users that rely on the arterial highways.

### **PROCUREMENT PROCESS**

Our Traffic and Lighting Division conducted an extensive evaluation of commercial off-the-shelf traffic control systems. Although a formal request for proposal was not solicited, a competitive process was employed that considered all potential traffic control systems. We did not consider system cost as the selection of a "low bid" system could result in poor performance, or require extensive training and/or modifications, substantially increasing the financial and resource impacts to the County.

In 1999, two consultants under contract with us asked nine vendors of traffic control systems to respond to our requirements survey. As a result of this survey and the ensuing evaluation, these consultants indicated that several systems might meet our needs. Subsequent to this survey, seven additional vendors approached us

expressing an interest in the procurement. Consequently, our evaluation considered all 16 interested vendors.

Eleven of the initial 16 vendors responded to our request for information. All 11 systems were evaluated for requirements conformance using the same rating criteria and weighted scoring system developed by our outside consultants during the initial evaluation process. Upon reviewing the 11 responses, two systems were eliminated because they clearly did not meet our standards.

The remaining nine vendors were invited to conduct system demonstrations and respond to 16 follow-up questions regarding our requirements. Of the nine vendor demonstrations, four vendors were eliminated because their systems required significant hardware modifications to our existing traffic signals and/or they could not operate across multiple jurisdictions. The requirement to operate without modification to our traffic signals was significant because such changes would increase our costs markedly and cause substantial impact on our staff to complete and incorporate these modifications. The requirement to operate across multiple jurisdictions was also critical because we currently operate traffic signals for numerous other jurisdictions in the County.

The remaining five vendors under consideration were further evaluated by our staff with hands-on testing. The five vendors were each given our evaluation criteria prior to the tests. Each vendor was also provided with both written and verbal reviews of our evaluations of the tests.

In the last step of our evaluation process, we conducted site visits to jurisdictions operating the first and second ranked systems. Upon completion of our evaluation process, we determined that Econolite's Pyramids traffic control system was our preferred choice. Econolite was selected for the following reasons:

- **Ease of Use:** Econolite's system is significantly easier to perform system start-up functions, such as entering traffic signal information into the database, creating the graphical map displays, and establishing the communications links between the map icons and the field devices.
- **Minimal Training:** Econolite's system is intuitive in comparison to the other systems evaluated. Staff can readily locate an icon or pull-down menu to perform a desired function without consulting the users manual.

- **Additional Functionality:** Econolite's system provides a tracking system for timing complaints made by the public. No other system had this feature.
- **Graphical Display:** Econolite's system allows staff to locate field devices and download device data via a map display and a hierarchical display. The hierarchical display organizes devices into a tree structure and allows staff to group devices by type, geographical area, or links. This feature will enable staff to monitor and control the County's traffic signal system more efficiently. All other systems evaluated provided only a map display.

We are working with County Counsel and outside legal counsel that specializes in technology/software contracts to negotiate and develop the agreement. In addition, we are consulting with the Chief Information Office to review our purchase.

JJW: ja

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cc: Chief Information Office (Howard Baker)  
County Counsel (Dave Michaelson)

bc: Diane Lee  
Chief Information Office (Ayala)