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 30, 2005

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:

INFORMATION EXCHANGE NETWORK PROJECT
AWARD OF CONSULTANT SERVICES AGREEMENT
ALL SUPERVISORIAL DISTRICTS
3 VOTES

CIO RECOMMENDATIONS: (X) APPROVE ( ) APPROVE WITH MODIFICATION
( ) DISAPPROVE

IT IS RECOMMENDED THAT YOUR BOARD:

1. Award the enclosed consultant services agreement (Agreement) with TransCore ITS, Inc. (TransCore), for the enhancement and full deployment of the County's Information Exchange Network (IEN), including system support and maintenance, for a not-to-exceed fee of $5,088,410.

2. Delegate authority to the Acting Director of Public Works, or his designee, to execute the Agreement to exercise the renewal options under the Agreement and to terminate the Agreement if in the Acting Director's opinion it is in the County's best interest to do so.

3. Delegate authority to the Acting Director, or his designee, to execute change orders for additional work pursuant to the provisions of the Agreement up to $150,000 per change order, not to exceed available Pool Dollars for Additional Services.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Public Works is recommending that your Board award an Agreement with TransCore to support the enhancement and deployment of the IEN. The Agreement will replace Contract PW 12072 (further described herein below). The Agreement also provides for a 3-year maintenance and support period commencing with the execution of the Agreement.

Since 1994, Public Works has administered Intelligent Transportation System (ITS) projects in various cities located within the County and in unincorporated County areas. The IEN is an advanced traffic management system and multijurisdictional network capable of sharing information and control of various traffic control systems and field devices. The deployment of the IEN along the I-210 Freeway corridor in 2002 was the first milestone completed in the ITS program. The IEN, once deployed Countywide, will improve regional traffic flow with the exchange of traffic signal data among multiple agencies and will provide a coordinated response to traffic congestion and incidents.

To achieve deployment of the IEN Countywide, and various other desired system enhancements, Public Works, working with TransCore, has identified and negotiated 14 proposed tasks, each with a not-to-exceed amount. The initial term of the Agreement is 3 years, with five 1-year optional renewals. The Agreement also outlines the details for 3 years of maintenance and support services.

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.

Additionally, the Subregional Traffic Forum ITS is part of Public Works' Fiscal Year 2005-06 Business Automation Plan.

FISCAL IMPACT/FINANCING

There will be no impact to the County's General Fund. The Agreement is for a not-to-exceed fee in the amount of $5,088,410. This includes $425,160 for 3 years of maintenance and support and $608,250 for unforeseen additional work that may arise during progress of the work. This also includes $95,000 of previously encumbered funds for tasks transferred from Contract PW 12072. Any additional work will not be

performed without prior written authorization from the Acting Director of Public Works, or his designee. Funding for this Agreement is available in the Fiscal Year 2005-06 Proposition C Local Return Fund Budget. Approximately 85 percent of the cost will be reimbursed by the Metropolitan Transportation Authority's 1995 Call for Projects Proposition C Discretionary Grant Funds for the Traffic Signal Forums.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Agreement has been approved as to form by County Counsel. In accordance with your Board's policy, outside counsel has also participated in the negotiations, reviewed the Agreement, and concurs with the recommendations. The Agreement contains Board-approved contract terms and conditions regarding employee notification of the Federal-earned income tax credit, contractor responsibility and debarment, jury service requirements, no payment for services received after contract expiration or termination, the safely surrendered baby law, and the services contract solicitation protest policy. As requested by your Board on August 12, 1997, and as a threshold requirement for consideration of contract award, TransCore states that they are willing to consider Greater Avenues for Independence participants for future employment.

The Agreement also requires TransCore to indemnify the County for liability arising out of the provision of products and services under the Agreement and to provide appropriate commercial insurance coverage. These indemnification and insurance provisions have been reviewed and approved by County Counsel and the Chief Administrative Office, Risk Management Branch. TransCore is also required under the Agreement to indemnify the County for potential intellectual property liability (such as patent infringement). Our past experience with TransCore, knowledge of TransCore's product, and information obtained from other consultant firms in the same industry leads us to believe that any intellectual property liability risk under the Agreement should be nominal. TransCore also has documented the high cost and restrictive terms of commercial insurance for such infringement coverage. For these reasons, we concur with TransCore's request that it be permitted to self-insure this area of liability.

We have determined that the Living Wage Program (County Code Chapter 2.201) does not apply to the Agreement, as the services being provided are highly technical and performed on an intermittent and part-time basis.

In compliance with the Chief Information Officer's guidelines, Public Works will utilize the Information Technology Tracking System (ITTS) to monitor the project status and contractor's performance.

ENVIRONMENTAL DOCUMENTATION

A finding of environmental impact is not required for the Agreement.

CONTRACTING PROCESS

On July 12, 1994, your Board approved Agreement 67680 with JHK and Associates, Inc., d.b.a. TransCore, for $2,912,861 to provide for the design, development, and implementation of the Countywide Traffic Signal Synchronization, Operation, and Maintenance Pilot Program for the San Gabriel Valley area. The original contract was allowed to expire (1999) while Public Works negotiated a revised scope of work and contract terms to complete the project. Upon expiration of Agreement 67680, only $1,078,861 of the total contract amount had been expended. The remaining unexpended amount was transferred to Contract PW 12072 described below.

On December 7, 1999, your Board approved Contract PW 12072 with JHK and Associates, Inc., d.b.a. TransCore, for an amount not to exceed $1,931,454, for the design, development, and implementation of the Countywide Traffic Signal Synchronization, Operation, and Maintenance Pilot Program for the San Gabriel Valley area. On December 19, 2000, your Board approved Supplemental Agreement 1 to PW 12072 for an amount not to exceed $151,828 to provide for enhanced system functionality, which was funded by contingency under PW 12072. On April 3, 2002, the Director of Public Works exercised his delegated authority to execute Supplemental Agreement 2 to PW 12072 for a lump sum fee of $32,000 to provide an updated communications analysis. Supplemental Agreement 2 did not increase the total contract sum. On May 14, 2002, your Board approved Supplemental Agreement 3 to PW 12072 for an amount not to exceed $603,922 to provide enhanced functionality, necessary documentation, and additional project management services. On August 5, 2003, your Board authorized the Director to execute Supplemental Agreement 4 to PW 12072 for $502,000 to develop a test environment to facilitate system integration, to perform software migration to current commercial-off-the-shelf (COTS) software products versions, and to amend PW 12072 to include cost of living provisions. On November 13, 2003, the Director exercised his delegated authority to increase the contract sum to include the remaining project contingencies and to facilitate Countywide deployment of the IEN. On December 16, 2004, the Director executed Supplemental Agreement 6 to PW 12072 extending the contract term to December 22, 2005, allowing completion of negotiations with respect to this Agreement. The total amount of funds committed to date for this project is $9,204,647, which includes $1,078,861 from Agreement 67680, $3,037,376 from Contract PW 12072, and $5,088,410 from this Agreement.

The purpose of this Agreement is to create a multiyear program with TransCore. The Agreement will replace Contract PW 12072, which will expire on December 22, 2005. The Agreement will provide for the enhancement, development, and deployment of the IEN Countywide and a full range of maintenance, support, and integration services to the IEN.

TransCore has gained special knowledge of the IEN through its deployment and, as a result, is specially suited to provide the requested services in the most economical and cost-effective manner. In addition, the IEN also includes some TransCore-owned proprietary software. If another vendor were to modify this software, they would be required to request approval from TransCore to enhance, maintain, and support the IEN.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

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

CONCLUSION

Please return one adopted copy of the Board letter to Public Works.

Respectfully submitted,

DONALD L. WOLFE
Acting Director of Public Works

Reviewed by:

JON W. FULLINWIDER
Chief Information Officer

IY:pc
P:\tlpub\WPFILES\FILES\Board Letters\IEN Master Agt - bd letter(final).doc1.doc

Enc.

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

EXECUTION COPY

COUNTY OF LOS ANGELES

DEPARTMENT OF

PUBLIC WORKS

INFORMATION EXCHANGE NETWORK PROJECT

EXECUTION COPY

AGREEMENT BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

TRANSCORE ITS, INC.

FOR

INFORMATION EXCHANGE NETWORK PROJECT

THIS AGREEMENT is made and entered into this _____ day of _____, 2005, by and between the County of Los Angeles ("County") and TransCore ITS, Inc., a Delaware Corporation ("Contractor").

WHEREAS, County and Contractor entered into a Consultant Services Agreement dated December 16, 1999, whereby Contractor provides services for the development, design and implementation of a Countywide Traffic Signal Synchronization Operation and Maintenance Program; and

WHEREAS, County and Contractor have entered into six (6) Supplement Agreements, dated January 23, 2001, April 3, 2002, June 13, 2002, August 11, 2003, November 13, 2003, and December 16, 2004 respectively (hereinafter "Supplemental(s)"), to the Consultant Services Agreement to expand and extend the scope of Contractor's work in connection with the design of a Countywide Information Exchange Network ("IEN") (the Consultant Services Agreement, as amended by each Supplemental thereto, shall hereinafter be referred to as the "1999 Agreement"); and

WHEREAS, the parties desire to amend, and supersede in part, the 1999 Agreement and enter into a master license, services, and implementation agreement to, among other things, clarify their respective rights and obligations in respect of software and other intellectual property, developed by Contractor and provided to County, and create uniform expectations in respect of the services to be provided by Contractor in connection with the full development and deployment of the IEN; and

WHEREAS, California Government Code Section 31000 permits County's Board of Supervisors to contract for special services with persons specially trained and experienced to perform the services.

WHEREAS, Contractor (i) will review all the available data furnished by County pertinent to the IEN; (ii) will exercise the ordinary care and skill expected of a practitioner in its profession acting under similar circumstances; and (iii) is willing to accept responsibility for performing the services set forth in this Agreement for the compensation and in accordance with the terms and conditions specified herein;

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, County and Contractor agree as follows:

1. APPLICABLE DOCUMENTS

1.1. Agreement. The provisions of this base document along with Exhibits A through J and any attachments thereto, as applicable, are incorporated by reference, collectively form and throughout and hereinafter are referred to as the "Agreement". This Agreement constitutes the complete and exclusive agreement between the parties and supersedes all previous and contemporaneous agreements, whether written or oral, and any and all communications and negotiations relating to the subject matter of this Agreement, including the 1999 Agreement, which has been incorporated into this Agreement pursuant to Paragraph 1.2.

1.2. Consolidation of 1999 Agreement. Without limiting Contractor's obligation to complete the work required under Supplementals 3 and 4 to the 1999 Agreement, dated June 13, 2003, and August 11, 2003, respectively, effective as of the Effective Date, the terms and conditions of the 1999 Agreement are superseded in their entirety by the terms and conditions of this Agreement, including by the terms of Paragraph 29 (System Warranty) and Paragraph 15 (License Terms), except in respect of the terms and conditions in the 1999 Agreement which survive of their own accord, and in respect of work in progress commenced under the 1999 Agreement, including the reservation of contingency funds for supplemental work to the work in progress, the following provisions of the 1999 Agreement shall survive and remain in effect until such work in progress is completed:

5.3: County Approval of Invoices
5.4: Holdbacks
5.5: County's Right to Withhold Payment
5.6: Credits to County
6: Work
9.3: County Approval of Work
10.2: Approval of Consultant's Staff
10.3: Reports by Consultant

Notwithstanding anything herein to the contrary, the Standby Letter of Credit (Exhibit H) shall not apply to work in progress commenced under the 1999 Agreement.

1.3. 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, goods, service or other work, or otherwise between and/or among this base document or the Exhibits, such conflict or inconsistency, shall be resolved by giving precedence first to this base document as the body of this Agreement, and then to the Exhibits, and attachments thereto, according to the following priority:

a. Exhibit A - Statement of Work
Attachment [_#_] Schedule of Work
(as attached pursuant to Paragraph 5.2.2)
Appendix [A-#] Schedule of Payments
Appendix [B-#] Project Schedule
Appendix [C-#] System Hardware Compatibility Specifications
Appendix [D-#] Third Party Software

b. Exhibit B – Price
Attachment 1 Task Value and Duration of Tasks
Attachment 2 Contractor's Applicable Hourly Labor Rates
Attachment 3 Maintenance & Support

c. Exhibit C - Maintenance and Support
Appendix A Commercial-off-the-Shelf Software for the IEN System Software
Appendix B IEN Site Server & Workstation Specifications

d. Exhibit D – Task/Deliverable Acceptance Certificate

e. Exhibit E – Contractor Employee Acknowledgment, Confidentiality and Copyright Assignment Agreement

f. Exhibit F – Contractor's EEO Certification

g. Exhibit G – Invoice Discrepancy Report

h. Exhibit H – Standby Letter of Credit

1.4. Construction. The captions and Paragraph headings appearing in this Agreement are inserted only as a matter of convenience and do not define, limit, construe or describe the scope or intent of the provisions of this Agreement. 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 terms and phrases in this Paragraph 2 in quotes and with initial letter capitalized, where applicable, shall have the meaning set forth below when used in this Agreement throughout and hereafter.

2.1. Additional Services

As used herein, the term "Additional Services" shall have the meaning set forth in Paragraph 11.6 (Additional Services).

2.2. Amendment

As used herein, the term "Amendment" shall have the meaning set forth in Paragraph 7 (Change Orders and Amendments).

2.3. Baseline Software

As used herein, the term "Baseline Software" shall mean Contractor's proprietary, generally commercially available off-the-shelf software product, licensed to County pursuant to this Agreement, which becomes a component of the System Software. Baseline Software does not include any Custom Software or Customizations.

2.4. Baseline Software Source Code

As used herein, the term "Baseline Software Source Code" shall mean all the Source Code for the Baseline Software.

2.5. Board

As used herein, the term "Board" shall mean County's Board of Supervisors.

2.6. Change Order

As used herein, the term "Change Order" shall have the meaning set forth in Paragraph 7.7 (Change Order).

2.7. Compatible; Compatibility

As used herein, the terms "Compatible" and "Compatibility" shall have the meaning set forth in Paragraph 20 (System Hardware; Compatibility).

2.8. Contractor

As used herein, the term "Contractor" shall mean TransCore ITS, Inc., as set forth in the Preamble.

2.9. Contractor Materials

As used herein, the term "Contractor Materials" shall have the meaning set forth in Paragraph 16.5 (Proprietary and Confidential).

2.10. Contractor's Project Manager

As used herein, the term "Contractor's Project Manager" shall have the meaning set forth in Paragraph 14.1 (Contractor's Project Manager).

2.11. Contractor's Staff

As used herein, the term "Contractor's Staff" shall mean the staff provided by Contractor and its subcontractors for the purpose of performing or providing the Work set forth in this Agreement.

2.12. County

As used herein, the term "County" shall mean the County of Los Angeles, California, as set forth in the Preamble.

2.13. County Materials

As used herein, the term "County Materials" shall have the meaning set forth in Paragraph 16.1 (Physical Materials; County Materials).

2.14. County's Project Director

As used herein, the term "County's Project Director" shall have the meaning set forth in Paragraph 13.1 (County's Project Director).

2.15. County's Project Manager

As used herein, the term "County's Project Manager" shall have the meaning set forth in Paragraph 13.2 (County's Project Manager).

2.16. Custom Programming Modifications

As used herein, the term "Custom Programming Modifications" shall have the meaning set forth in Paragraph 11.6.1.

2.17. Custom Software; Customization

As used herein, the terms "Custom Software" and "Customization" shall mean software, including Interfaces, developed by Contractor under this Agreement for County's use and operation of the IEN, which Custom Software is owned by County, and shall include customizations to the Baseline Software licensed by County from Contractor and software and Interfaces developed for County by Contractor in accordance with this Agreement.

2.18. Custom Software Source Code

As used herein, the term "Custom Software Source Code" shall mean all the Source Code for the Custom Software.

2.19. Day

As used herein, the term "Day" shall mean calendar days, unless otherwise expressly specified.

2.20. Deficiency

As used herein, the term "Deficiency" shall have the meaning set forth in Paragraph 10.1 (Deficiencies).

2.21. Deliverable

As used herein, the term "Deliverable" shall mean items and/or services provided or to be provided by Contractor under this Agreement, including those identified as numbered deliverables in Exhibit A (Statement of Work) and any Schedules of Work attached thereto.

2.22. Department; DPW

As used herein, the terms "Department" and "DPW" shall mean County's Department of Public Works.

2.23. Director

As used herein, the term "Director" shall mean the Director of County's Department of Public Works, including the Acting Director, or his/her authorized designee.

2.24. Disabling Device

As used herein, the term "Disabling Device" shall have the meaning set forth in Paragraph 28.3 (Further Warranties).

2.25. Dispute Resolution Procedure

As used herein, the term "Dispute Resolution Procedure" shall have the meaning set forth in Paragraph 53 (Dispute Resolution Procedure).

2.26. Documentation

As used here, the term "Documentation" shall mean any and all written materials (including electronic versions thereof), training course materials, specifications, customer technical manuals, customer handbooks, customer flow charts, customer technical information, customer reference materials, customer user manuals, customer operating manuals, quick reference guides, FAQs and all other instructions and reference materials relating to the capabilities, operation, installation and use of the System and/or applicable System components.

2.27. Effective Date

As used herein, the term "Effective Date" shall mean the date the Director issues a Notice to Proceed, which shall occur after the Board grants the Director the authority to execute this Agreement and this Agreement is executed by County and Contractor.

2.28. Final System Acceptance

As used herein, the term "Final System Acceptance" has the meaning set forth in Paragraph 6.2 (Final System Acceptance).

2.29. Final System Acceptance Date

As used herein, the term "Final System Acceptance Date" shall mean the date of Final System Acceptance, as set forth in Paragraph 6.2 (Final System Acceptance).

2.30. Final System Acceptance Warranty Period

As used herein, the term "Final System Acceptance Warranty Period" has the meaning set forth in Paragraph 29 (System Warranty).

2.31. Fiscal Year

As used herein, the term "Fiscal year" shall mean the twelve (12) month period beginning July 1 and ending June 30 of the following year.

2.32. Holdback Amount

As used herein, the term "Holdback Amount" shall have the meaning set forth in Paragraph 9.3 (Holdbacks).

2.33. Hourly Labor Rate

As used herein, the term "Hourly Labor Rate" shall mean 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. IEN

As used herein, the term "IEN" shall mean the Countywide Information Exchange Network, as set forth in the Preamble.

2.35. Infringement Claims

As used herein, the term "Infringement Claims" shall have the meaning set forth in Paragraph 21(Intellectual Property Indemnification).

2.36. Initial Term

As used herein, the term "Initial Term" shall have the meaning set forth in Paragraph 3 (Term).

2.37. Interfaces

As used herein, the term "Interfaces" shall mean the software mechanisms, including object code, but not Source Code, and related Documentation, which allow the transfer of electronic data and/or software commands between computer systems, applications or modules.

2.38. Integration Work

As used herein, the term "Integration Work" shall have the meaning set forth in Paragraph 11.4 (Modifications to Updates).

2.39. Invoice Discrepancy Report; IDR

As used herein, the terms "Invoice Discrepancy Report" and "IDR" shall have the meaning set forth in Paragraph 9.5 (Invoice Discrepancy Report).

2.40. Key Deliverables

As used herein, the term "Key Deliverable(s)" shall mean those items and/or services provided or to be provided by Contractor under this Agreement, identified as key deliverables in the Schedules of Work attached to Exhibit A (Statement of Work).

2.41. License

As used herein, the term "License" shall have the meaning set forth in Paragraph 15.2 ("License").

2.42. Maintenance Fee

As used herein, the term "Maintenance Fee" shall mean the amount charged by Contractor monthly for Maintenance Services, as such amount is set forth in Exhibit B (Price).

2.43. Maintenance Services

As used herein, the term "Maintenance Services" shall have the meaning set forth in Paragraph 11.1 (Maintenance Services).

2.44. Maximum Contract Sum

As used herein, the term "Maximum Contract Sum" shall mean the total monetary amount payable by County to Contractor under this Agreement, as set forth in Paragraph 4.2 (Maximum Contract Sum).

2.45. Notice to Proceed

As used herein, the term "Notice to Proceed" shall mean the notice to commence Work under this Agreement to be sent by the Director to Contractor pursuant to Paragraph 5.2.1 (Notice to Proceed).

2.46. Physical Materials

As used herein, the term "Physical Materials" shall have the meaning set forth in Paragraph 16.1 (Physical Materials; County Materials).

2.47. Pool Dollars

As used herein, the term "Pool Dollars" shall have the meaning set forth in Paragraph 11.6 (Additional Services).

2.48. Production Use

As used herein, the term "Production Use" shall mean the actual use of the System to perform County's traffic synchronization operations.

2.49. Project Management Services

As used herein, the term "Project Management Services" shall mean the time and materials based project management and system integration support Work performed by Contractor pursuant to Task 1 (Project Management & System Integration Support) under the Statement of Work.

2.50. Project Management Services Fee

As used herein, the term "Project Management Services Fee" shall have the meaning set forth in Paragraph 4.3 (Project Management Services Fees).

2.51. Project Schedule

As used herein, the term "Project Schedule" shall mean the project completion and delivery schedule agreed upon by County and by Contractor for the Schedule of Work for each Task.

2.52. Project Team

As used herein, the term "Project Team" shall mean the employees assigned or to be assigned by Contractor to work on the IEN, as set forth in the detailed Schedule of Work to be developed by Contractor for each executed Task Order. Members of the Project Team may be replaced pursuant to Paragraph 14.2 (Approval of Contractor's Staff) of this Agreement. On the Effective Date, the lead members of the Project Team shall be those individuals identified by Contractor in Paragraph 14.2.4.

2.53. Release Conditions

As used herein, the term "Release Conditions" shall have the meaning set forth in Paragraph 17.1.2 (Release Conditions).

2.54. Replacement Product

As used herein, the term "Replacement Product" shall have the meaning set forth in Paragraph 32 (Continuous Product Support).

2.55. Schedule of Work

As used herein, the term "Schedule of Work" shall mean each numbered Attachment (Schedule of Work) to the Statement of Work, which sets forth the Work required to be completed and delivered by Contractor in order to complete a particular Task identified in the Statement of Work, as further described in Paragraph 5.2.2 (Task Orders; Schedules of Work).

2.56. Source Code

As used herein, the term "Source Code" shall mean computer programming code in human readable form that is not suitable for machine execution without the intervening steps of interpretation or compilation, and includes code for all System Software, including all Updates, Custom Programming Modifications and Interfaces thereto, including the tools and developers' kits that enable understanding and use of the Source Code and creation of additional Source Code.

2.57. Source Code Self-Escrow

As used herein, the term "Source Code Self-Escrow" shall have the meaning set forth in Paragraph 17 (Source Code Retention).

2.58. Statement of Work; SOW

As used herein, the terms "Statement of Work" and "SOW" shall mean the work provided by Contractor pursuant to this Agreement identified in terms of Tasks, Subtasks and Deliverables as set forth in the attached Exhibit A (Statement of Work) together with all Schedules of Work and any other attachments thereto.

2.59. Subcontractor

As used herein, the term "Subcontractor" shall mean any person, entity or organization to which Contractor may delegate or has delegated any of its obligations or responsibilities hereunder in accordance with Paragraph 34 (Subcontracting).

2.60. System

As used herein, the term "System" shall mean generally, the IEN, and more particularly the System Software and System Hardware that have been acquired or licensed by County pursuant to this Agreement.

2.61. System Acceptance

As used herein, the term "System Acceptance" shall have the meaning set forth in Paragraph 6.1 (System Acceptance).

2.62. System Acceptance Date

As used herein, the term "System Acceptance Date" shall have the meaning set forth in Paragraph 6.1 (System Acceptance).

2.63. System Hardware; Hardware

As used herein, the terms "System Hardware" and "Hardware" shall mean any and all hardware that is specified by Contractor as required for use and operation of the System.

2.64. System Software

As used herein, the term "System Software" shall mean generally the Information Exchange Network and more specifically shall include the Baseline Software, Custom Software and Third Party Software comprising the IEN and including any and all Updates, Custom Programming Modifications, Interfaces and components provided from time to time.

2.65. System Software Source Code

As used herein, the term "System Software Source Code" shall mean all the Source Code for the System Software.

2.66. Task; Subtask

As used herein, the terms "Task" and "Subtask" shall mean one of the major areas of Work to be performed under this Agreement, including those identified as numbered Tasks and Subtasks in Exhibit A (Statement of Work) and any Schedules of Work attached thereto.

2.67. Task/Deliverable Acceptance Certificate

As used herein, the term "Task/Deliverable Acceptance Certificate" shall mean the certificate issued by County upon Contractor's satisfactory completion of the applicable Tasks, Subtasks, Deliverables, goods, and services and other Work in accordance with the requirements, specifications, and timetables set forth in the Statement of Work or any approved Change Order or Amendment, a form of which is attached hereto as Exhibit D (Task/Deliverable Acceptance Certificate).

2.68. Task Order

As used herein, the term "Task Order" shall mean the request for a particular Task, as set forth in Paragraph 5.2.2 (Task Order; Schedules of Work).

2.69. Term

As used herein, the term "Term" shall have the meaning set forth in Paragraph 3 (Term).

2.70. Third Party Software

As used herein, the term "Third Party Software" has the meaning set forth in Paragraph 19 (Third Party Software).

2.71. Update

As used herein, the term "Update" shall have the meaning set forth in Paragraph 11.3 (Updates).

2.72. User

As used herein, the term "User" shall mean any person to whom County grants the privilege to access the System. Users shall be employees or agents of County or of any organization that may from time to time be granted access rights by County.

2.73. Warranty Period

As used herein, the term "Warranty Period" shall have the meaning set forth in Paragraph 29 (System Warranty).

2.74. Work

As used herein, the term "Work" shall mean any and all Tasks, Subtasks, Deliverables, other Additional Services, Project Management Services, Custom Programming Modifications, Interfaces, goods, and other work or services performed or provided by or on behalf of

Contractor pursuant to this Agreement, Exhibit A (Statement of Work), and all the Exhibits, annexes, attachments, Schedules of Work, Change Orders, and amendments hereto.

2.75. Working Day

As used herein, the term "Working Day" shall mean 8:00 a.m. to 5:00 p.m., Pacific Time, Monday through Friday, excluding County observed holidays.

3. TERM

The term of this Agreement shall commence on the Effective Date and shall continue in full force and effect until expiration of the Warranty Period following Contractor's achievement of Final System Acceptance, unless sooner terminated or extended, in whole or in part, as provided in this Agreement (hereinafter "Term"). Without creating a binding obligation on County, County and Contractor anticipate that the Term will continue until June 30, 2008 (hereinafter "Initial Term"). The Director may, at his/her sole option and upon notice to Contractor no later than ninety (90) days prior to the end of the then current period of the Term, extend the term of this Agreement for additional one (1) year periods, which additional periods shall not, in total, exceed five years (each an "Option Term"). As used herein, the "Term" shall mean the Initial Term, and if extended, all Option Term(s), as the case may be.

4. MAXIMUM CONTRACT SUM

4.1. General

Attached to this Agreement as Exhibit B (Price) is a schedule of all fees applicable to this Agreement, along with a schedule allocating the applicable portions of the Maximum Contract Sum to the Tasks set forth in the Statement of Work. The payment schedule applicable to the Deliverables under each Task shall be set forth in the applicable Schedule of Work for such Task attached to the Statement of Work pursuant to Paragraph 5.2.2 (Task Order; Schedules of Work). Exhibit B (Price) includes a schedule of the applicable Maintenance Fees payable by County for Maintenance Services in respect of the System Software and the particular components of such software. Exhibit B (Price) further shall specify Hourly Labor Rates that are applicable for the Term for Time and Materials Work, which is limited to (i) Task 1 (Project Management & System Integration Support Services), (ii) Additional Services Work for which Pool Dollars will be utilized, (iii) certain Maintenance Services that may be performed by Contractor on a Time and Materials basis, as described in Exhibit C (Maintenance and Support), and (iv) such other Work that may be performed by Contractor on a Time and Materials that is specifically provided for herein.

4.2. Maximum Contract Sum

4.2.1. The "Maximum Contract Sum" under this Agreement shall be the total monetary amount that would be payable by County to Contractor for supplying all the Tasks, Subtasks, Deliverables, goods, services and other Work specified under this Agreement. The Maximum Contract Sum does not include the amounts paid or payable by County to Contractor for the work completed or work in progress specified under the 1999 Agreement.

4.2.2. The Maximum Contract Sum for this Agreement, including all applicable taxes, authorized by County hereunder, shall in no event, expressly or by implication, exceed Five Million Eighty-Eight Thousand Four Hundred and Ten Dollars ($5,088,410), which amount is allocated as follows: (a) Three Million Nine Hundred and Sixty Thousand Dollars ($3,960,000) for all Work required in respect of the Tasks set forth in the Statement of Work, excluding goods, services and other work, originally addressed in the 1999 Agreement, which are to be commenced and completed under this Agreement; (b) Ninety Five Thousand Dollars ($95,000) for all Work required in respect of the Tasks set forth in the Statement of Work, which goods, services and other work were originally addressed in the 1999 Agreement but are to be commenced and completed under this Agreement; (c) Six Hundred and Eight Thousand Two Hundred and Fifty Dollars ($608,250) as Pool Dollars for Additional Services (as defined in Paragraph 11.6 (Additional Services)), which may be provided by Contractor during the term of this Agreement in accordance with Paragraph 11.6 (Additional Services); (d) Four Hundred Twenty-Five Thousand One Hundred and Sixty Dollars ($425,160) as Maintenance Fees for Maintenance Services (as defined in Paragraph 11.1 (Maintenance Services)), which may be provided by Contractor during the term of this Agreement in accordance with such Paragraph 11.1 (Maintenance Services). The Maximum Contract Sum does not include any goods, services or other work commenced under the 1999 Agreement regardless of whether completed before or after the Effective Date. At the end of the Initial Term, Contractor shall be permitted to modify the contract values found within Exhibit B (Price), based on the County's COLA (as defined in Paragraph 4.6) for any Task not issued a Notice to Proceed by the County prior to expiration of the Initial Term.

4.2.3. Contractor shall perform and complete all Work required of Contractor by this Agreement in exchange for the amounts to be paid to Contractor as set forth in this Agreement. The total of all amounts paid by County to Contractor for such Work under this Agreement shall not exceed the Maximum Contract Sum. Contractor acknowledges and agrees that the Maximum Contract Sum is an all-inclusive, fixed price agreed upon assessment of the amount to be paid by County to Contractor in exchange for Contractor delivering to County, and County accepting the System, within the required delivery schedule. Contractor further acknowledges that the specifications set forth in the Statement of Work are functional specifications and that it is Contractor's risk and responsibility to design, achieve and timely deliver the System. Notwithstanding any provision of this Agreement to the contrary, Contractor is not obligated to perform Additional Services under Change Orders if Pool Dollars are not available to pay for such Work.

4.3. Project Management Services. Exhibit B (Price) includes a schedule of the not-to-exceed amount to be paid in respect of Project Management Services under Task 1 (Project Management & System Integration Support) to Exhibit A (Statement of Work), calculated at the Hourly Labor Rates that are set forth on Exhibit B (Price) with respect to Project Management Services (the "Project Management Services Fee"). Contractor and County acknowledge and agree that the Hourly Labor Rates set forth on Exhibit B (Price) with respect to Project Management Services are agreed upon and effective for the Initial Term. Contractor acknowledges and agrees that, in respect of a particular Task, Subtask, or Deliverable of any type of Project Management Services, Contractor shall only be entitled to receive the portion of such fee attributable to the Work actually provided by Contractor in completion of such Task, Subtask, or Deliverable and

for which Contractor provides supporting documentation to the level required pursuant to Paragraph 9 (Invoices and Payments).

4.4. Taxes

The amounts set forth in Exhibit B (Price) include all amounts necessary for County to reimburse Contractor for all applicable California and other state and local taxes on all System components procured by County from Contractor. County shall not be liable or responsible for reimbursement of any taxes associated with such procurement except as set forth in Exhibit B (Price). Contractor will be solely liable and responsible for, and shall pay such tax directly to the state or other taxing authority. In addition, Contractor shall be solely responsible for all taxes based on Contractor's income or gross revenue, or personal property taxes levied or assessed on Contractor's personal property to which County does not hold title.

4.5. County's Obligation for Future Fiscal Years

4.5.1. Notwithstanding any other provision of this Agreement, County shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during any of County's future fiscal years unless and until the Board and the Board of Directors of the Los Angeles Metropolitan Transportation Authority (hereinafter "MTA") appropriate funds for this Agreement in their respective budgets 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 47 (Termination for Convenience; Suspension), or shall be amended to reduce the work provided hereunder in accordance with the funds appropriated. County shall notify Contractor in writing of any such non-appropriation of funds at the earliest possible date.

4.5.2. In the event that budget reductions occur in any fiscal year covered by this Agreement that may cause County to consider terminating this Agreement, County may attempt to renegotiate the terms of this Agreement to reduce the cost thereof in lieu of termination under the termination provisions of this Agreement.

4.5.3. Contractor will notify County when contract amount has been incurred up to seventy-five percent (75%) of the Maximum Contract Sum.

4.6. Hourly Labor Rates: Cost of Living Adjustments

The applicable Hourly Labor Rates for Contractor Staff for the Initial Term are as set forth on the attached Exhibit B (Price). Commencing upon the expiration of the Initial Term, the Hourly Labor Rates may be adjusted annually based upon County's Cost of Living Adjustments (hereinafter "COLA"), which COLA is limited to the lesser of: (i) the general annual percentage salary change granted to County employees for the 12 month period preceding the prior July 1st, or (ii) the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index for Urban Consumers (CPI-U) 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. In the event fiscal

circumstances ultimately prevent the Board from approving any increase in County employee salaries, Contractor acknowledges that there shall be no corresponding COLA to the Hourly Labor Rates.

5. WORK

5.1. General. Contractor shall on a timely basis provide, complete, deliver and implement all Tasks, Subtasks, Deliverables, goods, services and other Work set forth in this Agreement as are required of Contractor for delivering a fully operational and functional System. Contractor shall perform such Tasks, Subtasks, Deliverables, goods, services and other Work in accordance with Exhibit A (Statement of Work) and all Schedules of Work attached thereto. Contractor acknowledges that, except in respect of Project Management Services and Additional Services, all Work performed under this Agreement is payable on a fixed price basis in accordance with the terms and conditions of this Agreement.

5.2. Notice To Proceed; Task Order.

5.2.1. Notice to Proceed. Contractor shall commence performing Work under this Agreement after the occurrence of: 1) Contractor's execution of this Agreement; 2) Contractor's delivery and filing with County of evidence of their insurance programs, along with significant endorsements required by this Agreement; 3) the Board's approval and execution of this Agreement; and 4) the issuance of a written Notice to Proceed by the Director. Upon commencement of such Work, Contractor's right to compensation for approved Work shall accrue.

5.2.2. Task Order; Schedules of Work. Without limiting the generality of Paragraph 5.2.1 (Notice to Proceed), Contractor shall not commence work on any particular Task under the Statement of Work, including any Tasks originally addressed in the 1999 Agreement but to be commenced and completed under this Agreement, unless and until Contractor receives a "Task Order" in respect of such Task executed by County's Project Director. Upon receipt of such Task Order, Contractor promptly shall prepare and provide no later than within ten (10) Days of the date of the applicable Task Order to County's Project Director a "Schedule of Work" in respect of each such Task, which Schedule of Work at a minimum shall contain the following:

a. the Subtasks required in respect of such Task; and

b. the Deliverables, including Documentation, specifications and requirements, as applicable; and

c. the pricing and payment schedule for completion and delivery to County of all Work and Deliverables required under the applicable Task, to be set forth in Appendix A (Schedule of Payments) to the Schedule of Work, which pricing and payment schedule is premised upon successful completion, and County approval, of Deliverables rather than upon partial or progress payments; and

d. a Project Schedule including completion and delivery dates and review periods for such Subtasks and Deliverables, to be set forth in Appendix B (Project Schedule); and

e. a schedule of the Hardware, including all applicable specifications therefor, required for County to enjoy and exercise fully its rights in respect of the Work to be provided under the Task, to be set forth in Appendix C (System Hardware Compatibility Specifications); and

f. a schedule of the Third Party Software to be provided by Contractor as part of the System Software provided under the Task, to be set forth in Appendix D (Third Party Software); and

g. identification of which Deliverables are Key Deliverables to be provided in respect of such Task. At a minimum, Key Deliverables shall include (i) County's final acceptance of Deliverables under the Task pursuant to Paragraph 5.3 (County Approval of Work), as applicable, and (ii) in respect of Tasks which provide for the delivery of Software (a) Response Times and (b) the description of System Acceptance, including the minimum standard Contractor must achieve for County's acceptance of the particular Software delivered under the Task and the date of System Acceptance for such Software (as defined in Paragraph 6.1 (System Acceptance)).

Contractor acknowledges that production efficiencies and other technological advances that are developed between the Effective Date and the issuance of an applicable Task Order may enable Contractor to provide the Work requested under the particular Task for less than the amount originally agreed upon and allocated to such Task under the Maximum Contract Sum and as set forth under Exhibit B (Price). If County's Project Director believes in good faith that such Work can be performed and provided for less than was originally agreed, 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. Upon County's Project Director's written approval of such Schedule of Work, Contractor shall commence performing such Work as is required thereunder. Such approved Schedule of Work shall be attached to the Statement of Work as an Attachment thereto and shall be incorporated into, and become a part of, the Statement of Work and this Agreement. If, after County has approved a Task, the amount owed by County to Contractor for such Task is less than the amount set forth under Exhibit B (Price) for such Task, the excess funds that had been allocated to the Task shall be available to be used as Pool Dollars.

5.3. <u>County Approval of Work</u>

5.3.1. All Tasks, Subtasks, Deliverables, including final Documentation, goods, services and other Work provided by Contractor, 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 Deliverable which is for draft Documentation and subject in all instances to any Holdback Amounts, County shall pay Contractor fifty percent (50%) of the invoiced cost allocated to the draft Documentation Deliverable upon Contractor's submission to County of the draft of the Documentation and the remaining fifty percent (50%) upon County's approval of the draft Documentation Deliverable. All other Deliverables, including final Documentation Deliverables, submitted to County for review and approval shall be approved or disapproved in

accordance with the review periods provided for in Appendix B (Project Schedule) to each Schedule of Work; provided that in no event shall the failure of County's Project Director to approve such Deliverables within the review periods specified in each Project Schedule constitute a breach of this Agreement, nor shall County be liable or responsible for any payment prior to such written approval. If the Deliverable is disapproved, then the County will provide a single set of detailed comments defining the nature and extent of the deficiency. The aforementioned submittals and the review periods have been accounted for in the current contract price and schedule. If any time is required by County to complete its review and/or approval of a Deliverable in excess of that provided for in a particular review period in the Project Schedule, there will be an equitable adjustment to the Project Schedule, provided that Contractor provides notice of County's delay pursuant to Paragraph 49 and County approves of such adjustment to the Project Schedule. If any further review periods beyond those provided for in the Project Schedule are required, resulting in changes to previously approved documents, there will be an equitable adjustment in the statement of Work, the price, or both, provided County approves of such adjustment, which approval may not be unreasonably withheld. The acceptance requirements for each Deliverable shall be based upon the Deliverable's conformance with the provisions of this Agreement. County's review and acceptance of Contractor's Work shall not relieve Contractor of its responsibility for the accuracy of such Work.

5.3.2. Upon completion of particular Tasks, including all applicable Subtasks, Deliverables, goods, services and other Work to be provided by Contractor pursuant to this Agreement, including the Statement of Work, and any executed Change Orders, but excluding Project Management Services and Maintenance Services, Contractor shall submit a Task/Deliverable Acceptance Certificate in the form attached as Exhibit D (Task/Deliverable Acceptance Certificate) to County's Project Director, which Task/Deliverable Acceptance Certificate shall be executed by Contractor's Project Director, together with any supporting Documentation reasonably requested by County. County's Project Director's written approval of the applicable Task/Deliverable Acceptance Certificate shall be evidenced by County's Project Director's countersignature thereto. Subject to the remainder of this Paragraph 5.3 (County Approval of Work) County's Project Director's written approval shall not be unreasonably withheld or delayed.

5.3.3. Contractor acknowledges that, notwithstanding anything herein to the contrary, Contractor must complete all Work required of it for completion hereunder and deliver to County the System. All Work shall be completed in a timely manner and in accordance with the requirements and specifications set forth in the Statement of Work, and must have the written approval of County's Project Director, as evidenced by County's 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.

5.4. Unapproved Work

If Contractor provides any Tasks, Subtasks, Deliverables, goods, services or other work to County, other than those specified in this Agreement, or if Contractor provides such items requiring County's prior approval without first having obtained such approval, the same shall be

deemed to be a gratuitous effort on the part of Contractor and Contractor shall have no claim whatsoever against County therefor.

6. SYSTEM ACCEPTANCE

6.1. System Acceptance

Contractor shall achieve System Acceptance for each Task on or before the date specified in each Schedule of Work. Contractor shall achieve "System Acceptance" upon successful completion of all the following: (a) its completion and delivery of all Subtasks, Deliverables, goods, services and testing protocols associated with the System requirements set forth in the Schedule of Work (including installing, implementing, and testing all System Software as the case may be); (b) successful implementation of all functions and features of all phases and successful achievement of all testing protocols has been verified by Contractor; (c) if System Software, 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 C (Maintenance and Support), for no less than thirty (30) days; and (d) County's Project Director has provided Contractor with written approval of all such Work, as evidenced by County's Project Director's countersignature on all applicable Task/Deliverable Acceptance Certificates (including the Task/Deliverable Acceptance Certificate applicable to System Acceptance) (the date of satisfaction of the foregoing for each Schedule of Work, including written approval thereof shall be referred to as the "System Acceptance Date").

6.2. Final System Acceptance

Contractor shall achieve Final System Acceptance upon successful completion of all the following: (a) its completion and delivery of all Tasks, subtasks, Deliverables, goods, services and testing protocols 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 Contractor; (c) County's Project Director has provided Contractor with written approval, as evidenced by County's Project Director's countersignature on all applicable Task/Deliverable Acceptance Certificates, of all such Work including System Acceptance for each Task, as applicable; (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 C (Maintenance and Support), for no less than two (2) thirty (30) day periods following the completion of the final Task that is a precondition to Final System Acceptance; and (e) County's Project Director has provided Contractor with written approval, as evidenced by County Project Director's countersignature on the applicable Task/Deliverable Acceptance Certificate, of Contractor's achievement of Final System Acceptance (the date of satisfaction of the foregoing, including written approval thereof shall be referred to as the "Final System Acceptance Date").

7. CHANGE ORDERS AND AMENDMENTS

7.1. No representative of either County or Contractor, 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 7.

7.2. County reserves the right to initiate changes to any portion of the Work required under this Agreement and to any other provisions of this Agreement. All such changes and amendments ("Amendment(s)") shall be by the mutual agreement of the parties in accordance with this Paragraph 7.

7.3. For any proposed change requested by County which does not affect the scope of Work, Term, Maximum Contract Sum, payments or any term or condition included in this Agreement, a Change Order shall be prepared and executed by County's Project Director and Contractor's Project Manager.

7.4. Without limiting the provisions of Paragraph 7.5 below, for any (a) Additional Services and (b) any other change related solely to the scope of Work, whether an addition to or reduction of such Work, period of performance or schedule or amount of payments, (i) provided in either instance that such proposed change is to be effected through the use of, and will not exceed, the available remaining Pool Dollars, and (ii) provided further that such change is consistent with the overall System to be delivered under this Agreement, then in either instance a Change Order shall be mutually agreed upon and executed by both the Director and Contractor's Project Manager.

7.5. Except as otherwise specified in this Agreement, for any proposed change which materially affects the scope of Work, Term, Maximum Contract Sum, payments or any term or condition included in this Agreement or exceeds the available remaining Pool Dollars, a negotiated Amendment to this Agreement shall be prepared and executed by the Board and Contractor's authorized representative.

7.6. In performing the Tasks under this Agreement, County and Contractor shall agree upon Project Schedules, pursuant to Paragraph 5.2.2, which will include the delivery and completion dates for the Work for each Task. Changes to each Project Schedule shall be made only upon mutual written agreement by County's Project Director and Contractor's Project Manager, provided that County's Project Director's election to alter the Project Schedule shall not prejudice County's right to claim that such alterations constitute an Amendment to this Agreement and shall be governed by the terms of Paragraph 7.5 above. Notwithstanding any other provision of this Paragraph 7, to the extent that extensions of time for Contractor performance do not impact either the scope of Work or the cost of particular Tasks or Deliverables, County's Project Director, in his/her sole discretion, upon written request from Contractor's Project Manager, may grant Contractor extensions of time in writing for the Work scheduled to be performed in accordance with a Project Schedule, provided that such extensions shall not exceed in the aggregate a total of six (6) months per Task and provided further that such extensions of time shall not extend, beyond a total of six (6) months: (i) the scheduled System Acceptance Date of the Task as provided in the applicable Schedule of Work; or (ii) the date required for achievement of Final System Acceptance.

7.7. Change Order. Any "Change Order" proposed or executed by the parties shall, unless waived in writing by County's Project Director, include:

7.7.1. a functional description of the Work to be performed under the specific Change Order and a statement, signed by Contractor's Project Manager, which explains and certifies that such

Work is outside the scope of Work required of Contractor under this Agreement for delivering the System; and

7.7.2. a quotation of a "not to exceed" price for completion and delivery of the requested Work and a monthly budget of anticipated expenditures, including labor expenses calculated using the Hourly Labor Rates for personnel time and equipment; and

7.7.3. a Project Schedule, including a proposed Task and Deliverable completion and delivery schedule for the Work requested under the Change Order; and

7.7.4. an accounting of any costs to be saved by County from Contractor's nonperformance of any Work that is to be supplanted by the Work under the Change Order; and

7.7.5. Contractor's Staff level recommended for completion of the applicable Work; and

7.7.6. estimated personnel hours, including the applicable Hourly Labor Rates, for completion of the requested Work; and

7.7.7. to the extent Custom Programming Modifications are requested, functional software specifications required for the Work requested under the Change Order; and

7.7.8. final delivery date for completed Work, including any post-delivery acceptance period as may be applicable; and

7.7.9. if applicable, a revised Project Schedule, including a revised Task and Deliverable completion and delivery schedule under the Schedule of Work for the remaining Work (i.e., other than the Work requested under the Change Order); and

7.7.10. a description and Contractor's cost of any applicable Hardware, Third Party Software or other System components required to complete the requested Work.

The Contractor shall revise as necessary, and provide to County, any Documentation affected by the Change Order, including the applicable Schedule of Work and Appendices thereto.

7.8. Contractor's quotations under the proposed Change Order, which includes the "not to exceed price" under Paragraph 7.7.2 above, shall be valid for sixty (60) days from the date of its submission, unless otherwise agreed to by County.

7.9. 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 Contractor, elect to direct Contractor to commence performing such Work (and Contractor agrees to commence performing such Work) and resolve the dispute over amounts owed to Contractor 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 5.3 (County Approval of Work) and Paragraph 9 (Invoices and Payments).

7.10. County shall be entitled to audit, in accordance with Paragraph 22 (Records and Audits), Contractor's compliance with Paragraph 7.7 (Change Order) above in respect of Work performed pursuant to any Change Order.

7.11. Notwithstanding any other provision of this Paragraph 7 or Paragraph 47 (Termination for Convenience; Suspension), 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 of this Agreement pursuant to Paragraph 47 (Termination for Convenience; Suspension) without further action by the Board and/or (ii) prepare and sign Amendments to this Agreement which reduce the Maximum Contract Sum without further action by the Board.

7.12. 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; and

B. Director shall obtain approval of County Counsel for any notice; and

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.

7.13. Such amendments shall be authorized under the following conditions:

A. Amendments shall be in compliance with all applicable Federal, State and County laws, rules, regulations, ordinances, guidelines and directives; and

B. The Board has appropriated sufficient funds for purposes of such Amendments; and

C. Director shall obtain approval of County Counsel for any Amendment; and

D. Director shall file a copy of all Amendments with the Executive Office of the Board within fifteen (15) days after execution of each Amendment.

7.14. Facsimile

Except for the parties' initial signatures to this Agreement, which must be provided in "original" form and not by facsimile or by Adobe Acrobat Portable Document Format ("PDF") via electronic mail, County and Contractor hereby agree to regard facsimile or PDF representations of original signatures of authorized officials of each party, when appearing in appropriate places on the Change Orders prepared pursuant to this Paragraph 7 and received via communications facilities, including electronic mail, as legally sufficient evidence that such original signatures have been affixed to Change Orders to this Agreement, such that the parties need not follow up facsimile or electronic mail PDF transmissions of such documents by subsequent (non-facsimile or non-electronic mail PDF) transmissions of "original" versions of such documents.

8. PRODUCTION USE OF THE SYSTEM

Following installation by Contractor and prior to Final System Acceptance by County of the System, County shall have the right to use, in production mode, any completed portion of the System, including completed computer program modules comprising the Baseline Software and Custom Software, without any additional cost to County if County determines that it is desirable or necessary for County operations. Such Production Use shall not restrict Contractor's performance under this Agreement and shall not be deemed to be Contractor's achievement of System Acceptance or Final System Acceptance, as the case may be.

9. INVOICES AND PAYMENTS

9.1. General

Contractor shall invoice County for all Deliverables, Tasks, Subtasks, goods, services and other Work which are specified in: Exhibit A (Statement of Work) and each attached Schedule of Work; Exhibit C (Maintenance and Support); all Change Orders, including Changes Orders for Additional Services; and all Integration Work, all of which Work has have been provided by Contractor and, other than for Maintenance Services, approved in writing by County, as evidenced by County's Project Director's countersignature to the applicable Task/Deliverable Acceptance Certificate, pursuant to the terms of this Agreement. In no event shall County be liable or responsible for any payment prior to such written approval. Contractor shall prepare invoices in accordance with Paragraph 9.2 (Invoice Detail) using mutually agreeable formats for charges owed to Contractor by County. No invoice prepared pursuant to this Paragraph 9 shall be delivered to County prior to the proper completion, delivery and approval, other than for Maintenance Services, of the Work for which payment is requested. In respect of Maintenance Services, Contractor shall invoice County monthly in arrears the Maintenance Fee for the applicable Maintenance Services provided in the preceding month.

All invoices under this Agreement shall be submitted 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

9.2. Invoice Detail

Each invoice submitted by Contractor shall indicate, at a minimum:

A. The Tasks, Subtasks, Deliverables, goods, services and other Work as described in Exhibit A (Statement of Work) and each applicable attached Schedule of Work, Exhibit C (Maintenance and Support) or each Change Order for which payment is claimed.

B. The date of written approval of the Tasks, Subtasks, Deliverables, goods, services or other Work by County's Project Director, including a copy of the fully

executed Task/Deliverable Acceptance Certificate, evidencing County's Project Director's approval of such Work. If the invoice is for Maintenance Services or Project Management Services, a statement by Contractor that a Task/Deliverable Acceptance Certificate is not applicable for this reason.

C. If the invoice is for Work provided pursuant to an approved Schedule of Work, the amount due for each Deliverable, as set forth in the applicable Schedule of Work attached to the Statement of Work.

D. If the invoice is for Project Management Services, the amount due under Task 1 (Project Management & System Integration Support) of Exhibit A (Statement of Work), which shall equal 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 Exhibit B. The invoice and total cost of Work performed shall also include Contractor's costs for materials purchased (on an item-by-item basis), as approved in advance by County's Project Director. The invoice shall further identify the maximum amount remaining under Task 1 (Project Management & System Integration Support) of Exhibit A (Statement of Work) for Project Management Services, which shall equal: (i) the maximum amount available for Task 1 (Project Management & System Integration Support) as enumerated in Exhibit B (Price) less (ii) the cumulative Project Management Services Fees accrued for Work performed under Task 1 (Project Management & System Integration Support) of Exhibit A (Statement of Work) to date.

E. If the invoice is for Additional Services for Custom Programming Modifications or for any other Work for which Pool Dollars and a Change Order will be utilized, a copy of the applicable Change Order, executed by the applicable representative of County (as provided in Paragraph 7 (Change Orders and Amendments)), a copy of the fully executed Task/Deliverable Acceptance Certificate evidencing County's Project Director'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.

F. If the invoice is for Maintenance Services, the Maintenance Fees for such Maintenance Services, including the "Level" (as described in Attachment 3 (Maintenance & Support) to Exhibit B (Price)) of Maintenance Fees for the month being invoiced. The invoice further shall include the cumulative amount of Maintenance Fees charged to County to date and the remaining amount of Maintenance Fees available for use in connection with future Maintenance Services.

G. Indication of the applicable "Holdback Amount" (as defined in Paragraph 9.3) and the cumulative Holdback Amount accrued under this Agreement, or if for a Change Order to be completed after the System Acceptance

Date, the cumulative Holdback Amount accrued under the applicable Change Order.

H. Indication of any applicable withholds or credits due to County under the terms of this Agreement, made known to Contractor at the time of invoice preparation.

9.3. Holdbacks

Holdbacks are applicable to work performed under this Agreement either as a single Task/Schedule of Work or as a Group (as identified in Exhibit A (Statement of Work)). Except for invoices for Maintenance Services, County will hold back ten percent (10%) of the amount of each invoice (hereinafter "Holdback Amount") approved by County pursuant to Paragraph 9.1. and ten percent (10%) of the amount of each invoice for Additional Services approved by County (as defined in Paragraph 11.6 (Additional Services)) (collectively, the "Holdback Amount"). Other than for Change Orders that the parties agree will be completed after the Final System Acceptance Date, with respect to individual Tasks/Schedules of Work, the entire ten percent (10%) of the cumulative amount of such Holdback Amounts shall be due and payable to Contractor upon the System Acceptance of each Task. With respect to Tasks/Schedules of Work performed as a Group, the entire ten percent (10%) of the cumulative amount of such Holdback Amounts shall be due and payable upon the earlier of System Acceptance of the final Task/Schedule of Work within the Group or six (6) months after County's approval of all authorized Tasks/Schedules of Work within the Group pursuant to Paragraph 5.3 (County Approval of Work). Holdback Amounts due and payable shall be subject in each instance to adjustment for any amounts arising under this Agreement owed to County by Contractor, including, but not limited to, any amounts arising from Paragraphs 9.5 (Invoice Discrepancy Report), 9.6 (County's Right to Withhold Payment), 9.7 (Credits to County) and any partial termination of any Task, Subtask or Deliverable set forth in the Statement of Work as provided hereunder. As to Change Orders that are to be completed after the System Acceptance Date, the aggregate Holdback Amount for such Change Order will be due and payable to County upon final acceptance by County of the Work provided under such Change Order.

9.4. Payments

Payment to Contractor for each invoice shall be made in arrears for work performed, provided that: (i) Contractor is not in default under any provision of this Agreement, (ii) the Work has been approved by County pursuant to Paragraph 5.3 (County Approval of Work), and (iii) Contractor has submitted the invoice in accordance with Paragraph 9.2 (Invoice Detail). Except with regard to Maintenance Services, no partial or progress payments towards anticipated or substantial completion of Tasks or Deliverables, or other Work, will be made under this Agreement.

Subject to the preceding sentence, County will pay each invoice amount, less the Holdback Amount, within thirty (30) days of County's written approval of such invoice, provided that the invoice has not been disputed in accordance with Paragraph 9.5 (Invoice Discrepancy Report) below.

9.5. Invoice Discrepancy Report

County's Project Director, or his/her designee, shall review each invoice for any discrepancies and will issue an Invoice Discrepancy Report ("IDR"), a form of which is attached hereto as Exhibit G (Invoice Discrepancy Report), to Contractor within fifteen (15) days of receipt of invoice in the event a payment amount is in dispute. Contractor 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's Project Director or County's Project Director's designee. If County's Project Director, or his/her designee, does not receive a written explanation for the charges within such ten (10) days of County's notice to Contractor of an IDR, Contractor shall be deemed to have waived its right to justify the original invoice amount, and payment, less the disputed charges and less the applicable Holdback Amount, will be made to Contractor.

9.6. County's Right to Withhold Payment

Notwithstanding any other provision of this Agreement and in addition to the provisions of Paragraph 9.3 (Holdbacks) and any rights of County given by law or provided herein, County may, upon written notice to Contractor, withhold payment for any Deliverable while Contractor is in default hereunder, or at any time that Contractor has not provided a County-approved Deliverable which under the Schedule of Work is scheduled to be delivered prior to or concurrently with the Deliverable for which payment would otherwise be due and is withheld. County's right to withhold payment shall not be deemed to impair any claims that Contractor may have against County or Contractor's rights to assert such claims pursuant to Paragraph 53 (Dispute Resolution Procedure).

9.7. Credits to County

All time limits and required acts to be done by both parties are the essence of this Agreement. If Contractor fails to successfully provide Deliverables by their due date, then it is mutually understood and agreed that the nature of the resultant damages arising from such delay would be extremely difficult and impractical to fix. County and Contractor agree that the depreciated value of the System, as affected by such delays, shall be determined as set forth in the remainder of this Paragraph. County shall be entitled to credits arising from Contractor's noncompliance with its obligations relating to the Deliverables identified in any Schedule of Work prepared in connection with a particular Task Order. Deliverables not properly completed within five (5) working days of the due date, as specified in each Schedule of Work, shall entitle County to a credit of One Thousand Dollars ($1,000) for each Day that the Deliverable is late.

Deliverables shall not be considered late if and to the extent their delay is due to circumstances above and beyond the control of Contractor, including County's delay, provided in all instances Contractor has filed a timely Notice of Delay pursuant to Paragraph 49 (Notice of Delay) in respect of each such circumstance.

9.8. No Payment For Services Provided Following Expiration/Termination of Agreement

Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or other

termination of this Agreement. Should Contractor receive any such payment, it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Agreement shall not constitute a waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Agreement.

10. DEFICIENCIES

10.1. Deficiencies

As used herein, the term "Deficiency" shall mean and include, as applicable to any Work provided by or on behalf of Contractor to County: any malfunction, error, or defect in the design, materials, development, or implementation of Work; any error or omission, or deviation from the published or mutually agreed upon industry standards, specifications, response times or any of the requirements set forth in this Agreement or in any County-approved Deliverable, or any other malfunction or error (other than a defect, error, omission or deviation to the Customizations caused by County's modification of the Source Code), including the provision of negligent workmanship, which results in the System, in whole or in part, not performing in strict compliance with the provisions of this Agreement, including the Statement of Work, as determined by County's Project Director.

10.2. Corrective Measures

Upon the discovery of a Deficiency by either party, the party discovering the Deficiency shall notify the other party in writing or, if not practicable, orally of the Deficiency. Upon the earlier of (a) notice (orally or in writing) from County, or (b) Contractor's discovery of such Deficiency, Contractor shall promptly commence corrective measures to remedy any Deficiency, and shall remedy such Deficiency, in accordance with the timeline set forth in Exhibit C (Maintenance and Support). Contractor acknowledges that, as part of Maintenance Services provided to County, Contractor may be required to repair, replace or reinstall all or any part of the defective System Software or other material, or create an Update, in order to remedy a Deficiency.

10.3. Approval

No Deficiency shall be deemed remedied until all necessary remedial action has been completed and approved in writing by County's Project Director in accordance with the procedures set forth in Paragraph 5.3 (County Approval of Work).

11. MAINTENANCE, SUPPORT AND ADDITIONAL SERVICES

11.1. Maintenance Services

In exchange for County's payment of the Maintenance Fees, Contractor shall provide support and maintenance services (collectively, "Maintenance Services") to County for the System in accordance with this Agreement and Exhibit C (Maintenance and Support). Maintenance Services shall commence upon the Effective Date.

11.2. 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 Exhibit C (Maintenance and Support). Correction of such Deficiencies shall be at no additional cost to County beyond the Maintenance Fees. If any component of the System Software requires Maintenance Services, Contractor shall provide such services at County's location, if necessary, or by remote access.

11.3. Updates

Subject to the remainder of this Paragraph 11, Maintenance Services shall include: (i) any upgrades, updates, enhancements, revisions, new version releases, improvements, corrections, 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 (as defined below), with the then current version of System Hardware and operating system software installed at County pursuant to the terms of this Agreement, and (iii) any updates or modifications required during the Term in order for the System Software and the System to remain in compliance with applicable federal or state and local laws and regulations (collectively, "Update(s)"), which Updates shall be provided by Contractor to County at no additional cost beyond the Maintenance Fees. Any Update delivered by Contractor to County is deemed a part of the System Software and shall be included in the License granted to County pursuant to this Agreement.

11.4. Modifications to Updates

Maintenance Services include, upon notice and request from and at the discretion of County's Project Director, provision, testing and modifications if any, of Updates acquired by County as may be necessary to maintain functionality provided by the current version release that is utilized by County, or as may be necessary to bring forward to the new version release the modifications to the System Software required by County under the Statement of Work or any Change Order, or pursuant to any Custom Programming Modification (collectively, "Integration Work"). Upon completion, implementation and acceptance by County of any Update, including any Integration Work performed in respect thereof, such Update shall become part of and be included in System Software.

11.5. System Hardware

For System Hardware specified by Contractor as necessary to operate and use the System Software, Maintenance Services includes the support of System Hardware to the extent such System Hardware fails to achieve compatibility with the System Software.

11.6. Additional Services

11.6.1. Subject to Paragraph 7 (Change Orders and Amendments), upon the written request of County's Project Director made at any time and from time to time during the Term, Contractor shall provide to County "Additional Services", such as customizations or modifications to the System Software that are requested by County's Project Director in order to create new functionality and not required of Contractor by the Statement of Work 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 C (Maintenance and Support), additional consulting services beyond the scope of Work under the Agreement, or Level 2 or Level 3 Maintenance Services, as defined in Attachment 3 (Maintenance & Support) to Exhibit B (Price), if such higher levels of Maintenance Services are required. Additional Services shall utilize available Pool Dollars for Additional Services ("Pool Dollars") set forth in Exhibit B (Price). In no event shall County be obligated to pay in excess of the then available Pool Dollars; nor shall Contractor be required to perform any Additional Services for payment of which there are no Pool Dollars available. Amounts due for such Additional Services shall be subject to the Holdback Amount pursuant to Paragraph 9.3 (Holdbacks). Contractor acknowledges that, as of the Effective Date, no Additional Services have been executed in order to deliver the System, no Additional Services have been requested by County, whether by Change Order or otherwise, and no Pool Dollars have been used to pay for Additional Services.

11.6.2. 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 7 (Change Orders and Amendments).

11.6.3. Additional Services shall be subject to a Warranty Period as set forth in Paragraph 29 (System Warranty) commencing upon County's approval of the Additional Services pursuant to Paragraph 5.3 (County Approval of Work).

11.6.4. Upon County's request for Additional Services, Contractor shall provide County, within seven (7) days of receipt of such request, a proposed Change Order containing all the information requested under Paragraph 7.7 (Change Order). Approval of the Change Order and of the Work to be performed thereunder shall be in accordance with Paragraph 7 (Change Orders and Amendments).

11.6.5. 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.

12. INDEMNIFICATION, INSURANCE AND STANDBY LETTER OF CREDIT

12.1. Indemnification

Contractor shall indemnify, defend and hold harmless County, and its elected and appointed officers, employees and agents (hereinafter in this Paragraph 12.1 "County") from and against any claims, demands, liabilities, losses, costs and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, claims and lawsuits for damages, including, but not limited to, breach of contract, bodily injury, death, personal injury or property damage (including damage to property owned by or in the care, custody or control of Contractor) arising from, or connected with, Contractor's, Contractor's agents', employees' or subcontractors' acts or omissions, willful misconduct or negligent conduct, whether active or passive, in the performance of services or provision of products hereunder, including without limitation any workers' compensation suits, liability or expense arising from

or connected with services performed by any person on behalf of Contractor, Contractor's agents, employees or subcontractors pursuant to this Agreement. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 12.1 shall be conducted by Contractor and performed by counsel selected by Contractor. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as required by law or this Agreement, County shall be entitled to reimbursement for all such costs and expenses.

12.2. General Insurance Requirements

Without limiting Contractor's indemnification of County, Contractor shall, during the term of this Agreement, provide and maintain, at its own expense, and shall require all of its subcontractors to maintain, the program(s) of insurance covering its operations hereunder, as provided in this Paragraph 12 below. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County.

12.2.1. Evidence of Insurance

Certificate(s) or other evidence of coverage satisfactory to County's Risk Manager shall be delivered to:

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

prior to commencing Work under this Agreement. Such certificates or other evidence shall, at a minimum:

a. Specifically identify this Agreement;

b. Clearly evidence all coverage required in this Agreement;

c. Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;

d. Include copies of the additional insured endorsement to the commercial general liability policy, adding County, its officials, officers and employees as insured for all activities arising from this Agreement; and

e. Identify any deductibles or self-insured retentions.

12.2.2. 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-:XV, unless otherwise approved by County's Risk Manager.

12.3. Insurance Coverage Requirements

12.3.1. Insurance Programs

12.3.1.1. General Liability Insurance (written on ISO policy from CG 00 01 or its equivalent) with limits of not less than the following:

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

12.3.1.2. Automobile Liability Insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than $1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

12.3.1.3. Workers' Compensation and Employers' Liability Insurance providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible. In all cases, the above insurance shall also include Employers' Liability coverage with limits of not less than the following:

Each Accident	$1 million
Disease – Policy Limit	$1 million
Disease – Each Employee	$1 million

12.3.1.4. Professional Liability

Insurance covering liability arising from any error, omission, negligent or wrongful act of Contractor, its officers or employees with limits of not less than $1 million per occurrence and $2 million aggregate. The coverage also shall provide an extended two (2) year reporting period commencing upon termination or cancellation of this Agreement.

12.3.1.5. 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. Insurance coverage limit will be at least $1 million per occurrence. If this insurance is written on a claims made form, Contractor shall either (a) maintain such insurance through the period ending two (2) years following the expiration or termination of this Agreement or (b) obtain an endorsement on such insurance that provides an extended reporting period of not less than two (2) years following the termination or expiration of this Agreement or insurance policy, which ever is longer or (c) replace such claims made insurance coverage with equivalent coverage of the per occurrence form that covers the entire term of the Agreement. Contractor may satisfy the requirements of this Paragraph 12.3.1.5 through use of self-insurance. County will accept Contractor's self-insurance coverage, provided Contractor submits current audited financial statements throughout the term of this Agreement, so that County can evaluate

these statements and confirm that Contractor has adequate financial resources to respond to claims in the above amount.

12.3.2. Notification of Incidents, Claims or Suits

Contractor shall report to County:

a. Any accident or incident relating to Work performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within twenty-four (24) hours of occurrence.

b. Any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.

c. Any injury to a Contractor employee which occurs on County property. This report shall be submitted on a "County Non-employee Injury Report" to County's Project Director.

d. Any loss, disappearance, destruction, misuse or theft of any kind whatsoever of County property, monies or securities entrusted to Contractor under the terms of this Agreement.

12.3.2.2. Compensation for County Costs. In the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Contractor shall pay full compensation for all costs incurred by County.

12.3.3. Insurance Coverage Requirements for Subcontractors

All subcontractors performing work under this Agreement shall be subject to the insurance requirements of this Agreement, which shall be maintained at no cost to County. Contractor shall ensure that any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

a. Contractor providing evidence of insurance covering the activities of subcontractors, or

b. Contractor 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.

12.4. Standby Letter of Credit.

12.4.1. Contractor shall furnish to County on or prior to the Effective Date, an irrevocable standby letter of credit in an amount equal to Five Hundred Thousand Dollars (U.S. $ 500,000.00). Such standby letter of credit shall be in form substantially similar to the attached Exhibit H (Standby Letter of Credit) and otherwise in form and substance satisfactory to

County, including the conditions for payment to County under such standby letter of credit. Prior to acceptance of Contractor's standby letter of credit, Contractor shall submit to County's Risk Manager, through County's Project Director, the form of the proposed standby letter of credit or alternative security for approval by County's Risk Manager and/or County's Treasurer and Tax Collector, as applicable as determined by County. Both the initial expense and the annual premiums or fees associated with continuation of the standby letter of credit shall be paid by Contractor.

12.4.2. The standby letter of credit shall be maintained by Contractor in full force and effect until released by County upon expiration of the Final System Acceptance Warranty Period. Any modification, extension, or termination of the Agreement shall in no way release Contractor or the issuer under such standby letter of credit from any of their obligations under such standby letter of credit. Such standby letter of credit shall contain a waiver of notice of any Change Orders and Amendments to the Agreement. County's Project Director may permit Contractor to reduce the amount of the standby letter of credit upon Contractor's delivery and County's acceptance of Tasks, provided that the standby letter of credit shall not be reduced to an amount less than the aggregate cost of the Tasks then outstanding. In the event County elects to permit reduction of the standby letter of credit, Contractor is solely responsible for all costs incurred by Contractor in connection with modifying and reducing the standby letter of credit.

12.4.3. No payments shall be due Contractor under this Agreement until the standby letter of credit is issued and received by County. The standby letter of credit shall be made payable to County and shall be issued by a federally insured bank or other financial institution organized under the laws of the United States and reasonably satisfactory to County. The County Agreement number and dates of performance shall be specified in the standby letter of credit.

12.4.4. The standby letter of credit shall secure Contractor's performance, including timely performing all Contractor's Work in accordance with the Statement of Work and providing Deliverables, and shall secure any and all damages, costs and expenses, resulting from Contractor's default in the performance of the Agreement. Notwithstanding anything herein to the contrary, the standby letter of credit shall not apply to work in progress commenced under the 1999 Agreement.

12.4.5. Without limiting the ability of County's Treasurer and Tax Collector to otherwise draw on the standby letter of credit in accordance with this Paragraph 12.4, if the standby letter of credit is set to expire (and will not be renewed, automatically or otherwise) prior to the expiration of the Final System Acceptance Warranty Period and Contractor has not secured a replacement standby letter of credit acceptable to County's Risk Manager and/or County's Treasurer and Tax Collector, as applicable as determined by County, no later than ten (10) Working Days prior to the expiration of such standby letter of credit, then County's Treasurer and Tax Collector shall be entitled to draw in full on such standby letter of credit one (1) Working Day prior to the expiration thereof. The proceeds of such standby letter of credit drawn pursuant to this Paragraph 12.4.5 shall be held in trust by County or, alternatively, without limiting any of County's other rights and remedies permitted under this Agreement, at law or in equity, may be applied by County as a credit toward any amounts due to County by Contractor pursuant to Paragraphs 12.4.4 and 12.4.6.

12.4.6. In the event of a termination by County, other than a termination for convenience pursuant to Paragraph 47 (Termination for Convenience; Suspension) or a deemed termination for convenience pursuant to Paragraph 46.2 (Deemed Termination for Convenience), County's Treasurer and Tax Collector shall be entitled to draw on such standby letter of credit up to the full amount of such standby letter of credit for any outstanding damage assessments made by County against Contractor. Upon County's delivery of the draw certificate to the issuer under the standby letter of credit, and regardless of whether Contractor disputes the factual basis for County's assertion of such termination, County shall be entitled to draw, and the issuer shall pay to County, any amount up to the full amount under the standby letter of credit. The amounts drawn by County under the standby letter of credit shall be applied to Contractor's liability for any direct, administrative and excess costs incurred by County in obtaining a similar system to replace, in whole or in part, the System terminated as a result of Contractor's default. In addition, upon such a termination, County may seek any other remedies permitted under the Agreement or available at law or in equity. The foregoing shall not limit Contractor's right to dispute County's termination of this Agreement or the amount of damages alleged by County in respect thereof. Notwithstanding anything herein to the contrary, at lease five (5) business days prior to any draw down by the County, a detailed account of the reason(s) therefor and the specific amount(s) shall be sent to Contractor's representative(s) identified in Paragraph 23.4 below.

12.5. Failure to Procure and Maintain Insurance or Standby Letter of Credit

Failure by Contractor to procure and maintain the required insurance or to provide evidence of insurance coverage acceptable to County or standby letter of credit, shall constitute a material breach of this Agreement, upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Contractor resulting from such breach. Alternatively, County may purchase such required insurance coverage, and, without further notice to Contractor, deduct from the sums due to Contractor any premium costs advanced by County for such insurance.

13. ADMINISTRATION OF AGREEMENT - COUNTY

13.1. County's Project Director

13.1.1. County's Project Director for this Agreement shall be the following person or his/her designee:

Ms. 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) 979-5319
E-mail: jwhite@ladpw.org

13.1.2. County will notify Contractor of any change in the name or address of County's Project Director.

13.1.3. County's Project Director will be responsible for ensuring that the objectives of this Agreement are met and for monitoring Contractor's compliance with this Agreement.

13.1.4. County's 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.

13.1.5. County's Project Director shall have the right at all times to inspect any and all Tasks, Subtasks, Deliverables, goods, services or other Work provided by or on behalf of Contractor.

13.2. County's Project Manager

13.2.1. County's Project Manager be the following person or his/her designee:

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

Telephone: (626) 300-2027
Fax: (626) 979-5319
E-mail: iyeung@ladpw.org

13.2.2. County will notify Contractor of any change in the name or address of County's Project Manager.

13.2.3. County's Project Manager will be responsible for ensuring that the technical standards and requirements of this Agreement are met.

13.2.4. County's Project Manager 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.

13.2.5. County's Project Manager will advise County's Project Director as to Contractor's performance with respect to requirements and technical standards.

13.2.6. County's Project Manager will interface with Contractor's Project Manager on a regular basis.

13.3. County Personnel

All County personnel assigned to this Agreement shall be under the exclusive supervision of County. Contractor understands and agrees that all such County personnel are assigned only for the convenience of County. Contractor hereby represents that its price, Project Schedule and performance hereunder are based solely on the work of Contractor's personnel, except as otherwise expressly provided in this Agreement.

14. ADMINISTRATION OF AGREEMENT - CONTRACTOR

14.1. Contractor's Project Manager

14.1.1. Contractor's Project Manager shall be the following person, who shall be a full-time employee of Contractor:

Mr. Charles Dankocsik
626 Wilshire Boulevard, Suite 818
Los Angeles, CA 90017-2921

Telephone: (213) 488-2201
Fax: (213) 327-0892
E-mail: chuck.dankocsik@transcore.com

14.1.2. Contractor's Project Manager shall be responsible for Contractor's performance of all its Tasks, Subtasks, Deliverables, services and other Work under this Agreement and ensuring Contractor's compliance with this Agreement.

14.1.3. Contractor's Project Manager shall be responsible for Contractor's day-to-day activities hereunder and for reporting to County in the manner set forth in Paragraph 14.3 (Reports by Contractor) and Exhibit A (Statement of Work).

14.1.4. Contractor's Project Manager shall coordinate with County's Project Director and/or Project Manager, at the sole discretion of County's Project Director, on a regular basis, but no less frequently than weekly.

14.2. Approval of Contractor's Staff

14.2.1. In fulfillment of its responsibilities under this Agreement, Contractor shall utilize, and permit utilization of, only staff fully trained and experienced, and as appropriate, licensed or certified in the technology, trades, tasks and subtasks required by this Agreement. Contractor shall supply sufficient staff to discharge its responsibilities hereunder in a timely and efficient manner.

14.2.2. County has the absolute right to approve or disapprove each member or proposed member of Contractor's key staff, including Contractor's Project Manager, and the promotion of each member of Contractor's key staff to a new employee classification, as set forth on Exhibit B prior to and during his/her performance of any work hereunder and prior to any proposed changes in Contractor's key staff, including Contractor's Project Manager or any lead member of

Contractor's Project Team. County's Project Director may require the replacement of any member of Contractor's Staff performing, or offering to perform, work hereunder, including, but not limited to, Contractor's key staff. Such County requested changes shall occur within fifteen (15) days of County's request. Contractor shall provide County's Project Director with resumes of all proposed key staff substitutions and shall make such staff available for interview by County upon request of County's Project Director. Contractor shall provide fifteen (15) days advance notice of any Contractor-initiated key staff changes.

14.2.3. Contractor also represents and warrants that it shall, to the maximum extent possible, take all necessary steps to ensure continuity over time of the membership of the group constituting Contractor's Staff, including, but not limited to, Contractor's Project Manager. Contractor shall promptly fill any staff vacancy with personnel having qualifications at least equivalent to those of the staff member(s) being replaced.

In the event Contractor should ever need to remove any key staff from performing Work under this Agreement, Contractor shall provide County with adequate notice and work on a mutually agreeable transition plan so as to provide an acceptable replacement and ensure project continuity.

14.2.4. The following persons have been identified initially by Contractor as the key staff of its Project Team and are hereby approved as of the Effective Date by County in the following roles:

Charles Dankocsik (Project Manager)
Jeff Mayo (Senior Systems Engineer II)
Vera Jin (Senior Systems Engineer I)
Michael Bayer (Systems Engineer I-II)
Jack Schneider (Systems Engineer III-IV)

In respect to a particular Task, should Contract propose alternate members of its Project Team in the Schedule of Work for such Task, such alternate members shall be subject to County's Project Director's approval.

14.2.5. Contractor shall be responsible for any additional costs incurred by the replacement of personnel pursuant to Paragraphs 14.2.2 and 14.2.3 above. In no event shall such an occurrence result in an increase in compensation to be paid by County under this Agreement.

14.3. Reports by Contractor

In order to control expenditures and to ensure the reporting of all Tasks, Subtasks, Deliverables, goods, services, and other Work provided by Contractor, Contractor shall provide to County's Project Director, with a copy to County's Project Manager, monthly written reports as described in Exhibit A (Statement of Work). The reports shall be in the same format and contain the types of information as Contractor currently provides to County under Contract PW 12716, which information includes:

A. Period covered by the report.

B. Summary of project status as of reporting date.

C. Tasks, Subtasks, Deliverables, goods, services and other Work scheduled for the reporting period, which were not completed.

D. Tasks, Subtasks, Deliverables, goods, services and other Work for the reporting period, which were completed.

E. Tasks, Subtasks, Deliverables, goods, services and other Work completed in the reporting period, which were not scheduled.

F. Tasks, Subtasks, Deliverables, goods, services and other Work to be completed in the next reporting period.

G. Issues to be resolved.

H. A list of outstanding issues and draft documents and a current status of those documents.

15. LICENSE TERMS

15.1. Ownership. The Baseline Software provided to County pursuant to this Agreement, other than Third Party Software, shall remain the property of Contractor, and all such Baseline Software is subject to the License granted to County pursuant to this Paragraph 15. Upon delivery to and acceptance by County of any and all Customizations, County shall own all right, title and interest in the Customizations, including the Customizations Source Code, subject to a perpetual, non-exclusive license by County to Contractor for the Customizations for all uses by Contractor in connection with the conduct of its business.

15.2. License. Contractor grants to County, effective as of the Effective Date, a perpetual, nonexclusive license (the "License"):

15.2.1. To use, install, integrate with other software, operate, and execute the Baseline Software, as modified under this Agreement to create the System Software, on an unlimited number of computers, servers, local area networks and wide area networks by an unlimited number of users within County and agencies and other governmental entities outside County who currently access or desire to access County's IEN System for use and operation of the IEN as contemplated under this Agreement;

15.2.2. To permit agencies to access, use, and conduct transactions with County using the Baseline Software, or otherwise as may be necessary for the conduct by County, and more specifically the Department, of its business;

15.2.3. To archive and make sufficient numbers of copies of the Baseline Software as is necessary for County to enjoy and exercise fully its rights under this License and this Agreement;

15.2.4. 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; and

15.2.5. 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 ; provided further, however, without limiting County's rights pursuant to Paragraph 15.2.2 or Paragraph 15.2.4, County covenants and agrees that it shall not exercise any of the rights contained in this Paragraph 15.2.5 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 17 (Source Code Retention).

15.2.6. 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 such third parties to view and create programming interfaces functioning with the System Software; provided that such third party access shall be subject to the same terms and conditions contained herein and such third parties shall first execute a non-disclosure agreement in a form reasonably acceptable to Contractor prior to being provided access to the System Software, the Documentation or System Software Source Code.

15.3. Fully-Paid Software License. Pursuant to the 1999 Agreement and payments made thereunder, Contractor acknowledges that County has a fully paid, irrevocable License to the Baseline Software and Baseline Software Source Code provided to County under the 1999 Agreement. Without limiting County's ownership of Customizations and notwithstanding anything herein to the contrary, County further shall have a fully paid, irrevocable License to any Baseline Software and Baseline Software Source Code and modifications thereof provided by Work performed under this Agreement, upon (i) each applicable System Acceptance Date, and (ii) County's payment to Contractor of all approved invoiced amounts for said Work provided under this Agreement, which License shall continue in perpetuity and survive the termination or expiration of this Agreement for any reason, including County's decision not to obtain or continue Maintenance Services for any reason.

16. PROPRIETARY CONSIDERATIONS

16.1. Physical Materials; County Materials

Contractor and County agree that without limiting Contractor's intellectual property rights in the System Software, County owns, and Contractor hereby transfers to County, all right, title, and interest in the physical media through which the System Software and any other Work performed by or on behalf of Contractor and delivered to County pursuant to this Agreement, in any form whatsoever, including the physical media through which the Source Code is held on deposit (collectively, the "Physical Materials").

Contractor and County agree that all materials, designs, specifications, techniques, plans, reports, test criteria, departmental procedures and processes, Deliverables, data and any other information developed under this Agreement and all copyright, patent, trade secret, moral and other proprietary rights therein, shall be the sole property of County (hereafter in this Paragraph 16, collectively, "County Materials"). Contractor hereby assigns and transfers to County all Contractor's right, title and interest in and to all such County Materials developed under this

Agreement. Notwithstanding the foregoing, (i) the above assignment shall not apply to any pre-existing copyright, patent, trade secret, moral or other proprietary right in or to the extent any such right is included or embodied in County Materials, which pre-existing rights have been licensed to County, and (ii) nothing in this Agreement shall prohibit Contractor from creating, on behalf of other customers or for itself, without obligation to County, any of the above-mentioned items even if such items are substantially similar, or identical to, County Materials.

Notwithstanding such County ownership in the County Materials, Contractor may retain possession of all working papers prepared by Contractor under this Agreement and shall protect such working papers from loss or damage by any cause, including fire and theft. During and for a minimum of five (5) years subsequent to the term of this Agreement, County shall have the right to inspect any and all such working papers, make copies thereof and use the working papers and the information contained therein.

16.2. Transfer to County

Upon request of County, Contractor shall execute all documents requested by County and shall perform all other acts requested by County to assign and transfer to, and vest in County, all Contractor's right, title and interest in and to the Physical Materials and County Materials, including, but not limited to, all copyright, patents, trade secret rights, moral rights and other proprietary rights. County shall have the right to register all copyrights and patents in the name of the County of Los Angeles. Further, County shall have the right to assign, license, or otherwise transfer any and all County's right, title and interest, including, but not limited to, copyrights and patents, in and to the Physical Materials and County Materials.

16.3. Copyright Notices

Contractor shall affix the following notice to all County Materials: "© Copyright 200_ (or such other appropriate date of first publication), County of Los Angeles. All Rights Reserved." Contractor shall affix such notice: (1) at the beginning and at the end of all Source Code, such that on storage media and on printouts, the notice appears with or near the title of each program; (2) continuously on all sign-on display screens; (3) on the title page of all system and user Documentation; and (4) as otherwise may be directed by County.

16.4. Contractor's Obligations

Contractor shall protect the security of and keep confidential all Physical Materials and County Materials obtained or produced under this Agreement. Further, Contractor shall use whatever security measures are necessary to protect all such Physical Materials and County Materials from loss or damage by any cause, including fire and theft.

Contractor 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.

Contractor understands and agrees that it does not, by virtue of this Agreement or otherwise, acquire any rights whatsoever with respect to any of the data or information placed into, used within, or resulting from the use of, the System, and that as between Contractor and County, County is and shall remain the sole and exclusive owner of all such data or information.

During the term of this Agreement and for five (5) years thereafter, Contractor shall also maintain and provide security for all Contractor's working papers prepared under this Agreement.

16.5. Proprietary and Confidential

Any and all materials developed or originally acquired by Contractor outside the scope of this Agreement, (hereinafter "Contractor Materials") which Contractor desires to use hereunder and which Contractor considers to be proprietary or confidential, must be specifically identified by Contractor to County's Project Manager as proprietary or confidential and shall be plainly and prominently marked by Contractor as "PROPRIETARY" or "CONFIDENTIAL" on each appropriate page of any document containing such Contractor Materials.

16.6. County's Rights and Obligations

County shall protect the security of and keep confidential, to the extent possible, as permitted by law, Contractor Materials that are proprietary or confidential. County agrees not to reproduce, distribute, or disclose to any non-County entities (other than outside counsel or consultants subject to non-disclosure agreements or obligations) any such Contractor Materials that are proprietary and/or confidential, including the Baseline Software, without the prior written consent of Contractor, except as required by law or as specifically permitted pursuant to this Agreement. Notwithstanding the foregoing, it is expressly agreed that County may reproduce, distribute or disclose such proprietary and/or confidential Contractor Materials without Contractor's consent to other governmental or public agencies within Los Angeles County, provided that County acquires consent of such governmental or public agencies to the same obligations assumed by County to protect and keep confidential such Contractor Materials. Further, County shall use whatever security measures are reasonably necessary to protect all such Contractor's Materials from loss or damage by any cause, including, but not limited to, fire and theft.

16.7. No Obligation by County

Notwithstanding any other provision of this Agreement, County shall not be obligated to Contractor in any way under this Agreement for disclosure of:

A. Any of Contractor Materials that are proprietary and/or confidential which are not plainly and prominently marked with restrictive legends as required pursuant to Paragraph 16.5 (Proprietary and Confidential);

B. Any Physical Materials and County Materials covered under Paragraph 16.3 (Copyright Notices); or

C. Any materials, which County is required to make under the California Public Records Act or otherwise by law.

17. SOURCE CODE RETENTION

17.1. System Software Source Code Self-Escrow

17.1.1. Source Code Self-Escrow. Contractor shall deposit with County the Source Code for all System Software ("Source Code Self-Escrow") (including the Customizations, Interfaces and Custom Programming Modifications), other than System Software which constitutes and is identified as Third Party Software pursuant to Paragraph 19 (Third Party Software). In addition, Contractor also shall deposit with County the Source Code for any and all Updates or corrections of Deficiencies to the System Software, other than to System Software which constitutes Third Party Software, together with any presentation by Contractor of a Task Deliverable Acceptance Certificate in respect of the corresponding object code delivered hereunder. Contractor's duty to deposit the Source Code with County shall continue throughout the Term and each Option Term and Contractor shall keep all Source Code for the System Software, other than Third Party Software, current and equivalent to the System Software, other than Third Party Software, then being executed by County. Except as provided in Paragraphs 17.1.4 (County's Right to Verify Source Code) and 17.1.5 (Use and Possession of Source Code), County shall hold the Source Code in strict confidence and not use it for any purpose unless one of the conditions described in Paragraph 17.1.2 (Release Conditions) has occurred which would permit County to use the Source Code as provided in Paragraphs 17.1.4 (County's Right to Verify Source Code) and 17.1.5 (Use and Possession of Source Code). The parties acknowledge that as a result of the passage of time alone, the deposited Source Code may be susceptible to loss of quality. For the purpose of reducing the risk of loss of quality, during the Term, Contractor shall deliver to County a new copy of all deposited Source Code at least once every three (3) years. In the event the Source Code or any part of it is destroyed or corrupted, upon County's Project Manager's request, Contractor shall provide a replacement copy of the Source Code. Contractor shall deliver the replacement copy of the Source Code within thirty (30) days of receipt of County's Project Manager's written request. County shall pay to Contractor the actual cost of the replacement copy media or provide Contractor with the copy media.

17.1.2. Release Conditions. Upon the occurrence of any of the events identified below (collectively referred to as "Release Conditions"), County shall have the right to exercise any of its rights provided under Paragraphs 17.1.3 (Rights Following Release), 17.1.4 (County's Right to Verify Source Code), and 17.1.5 (Use and Possession of Source Code), at no cost to County:

a. Contractor ceases to provide service under, or breaches, this Agreement.

b. The occurrence of an event that would give rise to County's ability to terminate pursuant to Paragraph 46 (Termination for Default);

c. Contractor fails to provide to County a new release or version of any System Software which adds new functionality, significantly improves existing functionality or maintains the System Software's compliance with current industry standards within thirty (30) days of Contractor's general release of such version;

d. Contractor fails to do business in the ordinary course;

e. Contractor ceases to do business with County as required under this Agreement without a permitted successor, or if there is such a successor, before such successor commences to continue Contractor's business;

f. County terminates Maintenance Services for Contractor's breach of such Maintenance Service obligations;

g. County terminates this Agreement pursuant to Paragraph 64 (Contractor Responsibility and Debarment);

h. Contractor discontinues the provision of Maintenance Services for any reason other than County's nonpayment of any undisputed Maintenance Fees accrued hereunder, unless prior to Contractor's discontinuation of Maintenance Services, Contractor assigns such obligation to a third party approved in advance by County pursuant to Paragraph 31 (Prohibition Assignment and Delegation) or Contractor otherwise breaches its obligations in respect of, Maintenance Services pursuant to Exhibit C (Maintenance and Support);

i. An appointment of a receiver for Contractor or its property, an assignment of a substantial portion of Contractor's assets for the benefit of its creditors, the commencement of any proceedings by or for Contractor under any bankruptcy or insolvency or debtor's relief law, commencement of any proceedings against Contractor under any bankruptcy, insolvency or debtor's relief law that are not dismissed within thirty (30) days, or the insolvency, liquidation or dissolution of Contractor; or

j. The filing of a motion by Contractor or a representative of Contractor's bankruptcy estate seeking bankruptcy court approval of rejection of any of the Agreements or of this Source Code Retention Agreement pursuant to United States Bankruptcy Code Section 365 or the filing of a plan of reorganization for Contractor that provides for such rejection.

In the event of a claim to the Source Code under this Paragraph 17 (Source Code Retention) County shall provide Contractor with a written notice outlining the facts upon which County bases its claim that a Release Condition has occurred. If Contractor does not contest County's right to use the Source Code within five (5) Working Days, County shall release the Source Code for the exercise of its rights under this Paragraph 17 (Source Code Retention). Contractor may contest County's right to use the Source Code pursuant to the Dispute Resolution Procedure as provided in Paragraph 53 (Dispute Resolution Procedure). If the Dispute Resolution Procedure results in disagreement between the Chief Executive Officer of Contractor and the County's Director as to whether a basis exists for any claim by County to the Source Code, and the County's Director continues to believe that such a basis does exist, then County's Director may, in the Director's sole discretion, give notice of such belief to Contractor, in which event County may, at any time on or after a date that is five (5) days after the giving of such notice, utilize any or all of the Source Code in the manner set forth in Paragraphs 17.1.3 (Rights Following Release), 17.1.4 (County's Right to Verify Source Code) and Paragraph 17.1.5 (Use and Possession of Source Code) below.

17.1.3. Rights Following Release. Contractor hereby grants County, upon release of the Source Code, the non-exclusive right and license to correct Deficiencies in and otherwise modify the Source Code and to copy, compile, create Customizations from or otherwise use the Source Code delivered to County pursuant to this Paragraph 17 in any way as needed to perform Contractor's obligations under this Agreement or otherwise support County's full exercise of its rights under this Agreement. The foregoing right and license is granted as of the date hereof; provided County agrees not to exercise such right and license unless and until the Source Code is released to County hereunder. Any executable code produced from the Source Code shall be deemed to be System Software under this Agreement, subject to all of County's rights hereunder, provided that, notwithstanding anything to the contrary in this Agreement, County shall own all copyrights and other intellectual property rights in any modifications, customizations, derivative works or other work it develops or creates in connection with the Source Code or the System Software, subject to Contractor's ownership of the intellectual property rights in the underlying versions of the System Software, other than Customizations, it delivers to County, as such Contractor's ownership is set forth in this Agreement. The Source Code shall be deemed to be proprietary and confidential under this Agreement.

17.1.4. 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 Source Code by, among other things, compiling the Source Code and performing test runs for comparison with the System Software.

17.1.5. Use and Possession of Source Code. Subject to the provisions of Paragraphs 17.1.3 (Rights Following Release), 17.1.4 (County's Right to Verify Source Code) and 17.1.5 (Use and Possession of Source Code), 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, modify or create derivative Works from Source Code for the purposes granted by the License hereunder, provided that in the event County modifies System Software (i) without prior approval of Contractor, (ii) following a Release Condition or (iii) following termination of this Agreement, Contractor shall no longer be responsible for any terms under the Warranty or any provision of support with respect to such modifications. When Source Code is not in use, County agrees to keep such Source Code in a locked secure place. When 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 System, provided that County may permit third party access to the Source Code as necessary or appropriate for County to exercise fully its rights, including the provision of maintenance and professional services, under this Agreement pursuant to Paragraph 15 (License).

18. NEW TECHNOLOGY

Without limiting Contractor's obligation to provide County with Updates in consideration of the Maintenance Fee, Contractor and County acknowledge the probability that the technology of the System Software and System Hardware provided under this Agreement will change and improve during the Term. County desires the flexibility to incorporate into the System any new technologies, as they may become available. Accordingly, Contractor's Project Manager shall, promptly upon discovery and on a continuing basis, apprise County's Project Director of all new

technologies, methodologies, and techniques, other than Updates, that Contractor considers being applicable to the System. Specifically, upon County's request, Contractor 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 System, and provide an estimate of the impact such incorporation will have on the performance, scheduling, and price of the System. County, at its discretion, may request that this Agreement be amended to incorporate the new technologies, methodologies and techniques into the System pursuant to the provisions of Paragraph 7 (Change Orders and Amendments) of this Agreement.

19. THIRD PARTY SOFTWARE

19.1. Contractor hereby represents and warrants that none of the System Software, other than the third party software as specified in the Appendix D (Third Party Software) to each Schedule of Work ("Third Party Software") and which is deemed to be a part of the System Software, is owned by third parties. Contractor represents and warrants that it has not modified and shall not modify, nor does Contractor have any need to modify, Third Party Software in order for the System Software to fully perform in accordance with all requirements of this Agreement. Contractor represents and warrants that all Third Party Software is provided to County in the same unmodified form as received by Contractor from the applicable third party. Contractor represents and warrants that Third Party Software shall, together with the remainder of the System Software, fully satisfy all requirements of this Agreement without the need for any modification of Third Party Software by Contractor or otherwise.

19.2. 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. Contractor shall aid County in obtaining licenses for Third Party Software, unless County obtains any such license through an extension of an existing County license with a provider of Third Party Software. 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, Contractor 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. Contractor shall promptly and at no cost to County, either: (1) obtain a license from the appropriate third party which shall enable Contractor to modify such Third Party Software, and Contractor shall provide all necessary modifications, or (2) to the extent that Contractor is unable to obtain such a license, provide an Update or alternative solution, which is functionally equivalent, in the reasonable determination of Contractor's Project Manager and County's Project Manager, in lieu of modifying such Third Party Software.

20. SYSTEM HARDWARE; COMPATIBILITY

Attached to each Schedule of Work as Appendix C (System Hardware Compatibility Specifications) are matrixes that set forth the Hardware that is Compatible (as defined below) with the System Software, including any Updates thereto, and is required for County to enjoy and exercise fully its rights in respect of the System ("System Hardware"). Such matrixes shall specify version Compatibility (as defined below) and shall provide specifications for installation of the System Hardware in order to achieve and maintain Compatibility with the System

Software, along with recommended make and model numbers. As used herein, "Compatible" or "Compatibility" means that the applicable System Hardware is capable of supporting, operating and otherwise performing all such System Hardware anticipated functions when used in conjunction with the System Software in its then current form as of the Final System Acceptance Date, which includes any modifications required under the Statement of Work.

21. INTELLECTUAL PROPERTY INDEMNIFICATION

21.1. Contractor shall indemnify, defend, and hold harmless County (as defined in Paragraph 12.1 (Indemnification) above) in accordance with Paragraph 12.1 (Indemnification) from and against any and all claims, actions, demands, damages, liabilities, losses, fees, costs, and expenses (including, defense costs and legal, accounting and other expert, consulting or professional fees), as such are incurred, for or by reason of any actual or alleged infringement of any patent or copyright, or other rights of any third party, or any actual or alleged trade secret disclosure or misappropriation, arising from or related to the System Software or the operation and utilization of Contractor's Work or Subcontractor's work under this Agreement (hereafter collectively referred to as "Infringement Claims"). Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 21 shall be conducted by Contractor and performed by counsel selected by Contractor 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 Contractor 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. Contractor shall have no obligation to County under this Paragraph 21 if any Infringement Claim is caused by use by County of the System other than in accordance with the specifications and other applicable Documentation, as determined by County's Project Director.

21.2. Without limiting the foregoing, in the event County's Project Director becomes aware that ongoing use of the System or System components, or any part of them, is the subject of any Infringement Claim that might preclude or impair County's use of the System or System component (e.g., injunctive relief), or that County's continued use of the System or System component may subject it to punitive damages or statutory penalties or other costs or expenses, County's Project Director shall give written notice to Contractor of such facts. Upon notice of such facts, Contractor shall, at no cost to County, either (1) procure the right, by license or otherwise, for County to continue to use the System or affected System components, or parts thereof, to the same extent of County's license under this Agreement, or (2) to the extent Contractor is unable to procure such right, replace or modify the System or System components with another system or components of equivalent quality and performance capabilities, in County's reasonable determination, to become non-infringing, non-misappropriating or non-disclosing. If Contractor fails to complete the remedial acts set forth above within forty-five (45) days of the date of the written notice from County, or if completion is not possible despite Contractor's commercially reasonable best efforts within such forty-five (45) day period, and County has not approved in writing (such approval not to be unreasonably withheld) Contractor'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 this 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 System or System components or damages or other costs or expenses

(hereafter referred to as "County's Remedial Acts"). Contractor shall indemnify and hold County harmless for all amounts paid and all direct and indirect costs associated with County's Remedial Acts. Failure by Contractor to pay such amounts and costs within ten (10) days of invoice by County shall, in addition to, and cumulative to all other remedies entitle County to immediately withhold payments due to Contractor under this Agreement up to the total of the amounts and costs paid in connection with County's Remedial Acts. Contractor shall remain fully responsible for any remedial acts required of, or any liability incurred in respect of, any Subcontractor.

22. RECORDS AND AUDITS

22.1. Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Agreement. Contractor agrees that County, or its authorized representatives (who shall not be business competitors of Contractor, as reasonably determined by County), shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records relating to this Agreement during normal business hours; provided that County's access to such employment records of Contractor shall be limited to access that does not constitute an unlawful invasion of the privacy rights of any such employee, and provided further that County shall not audit documents for determining the cost basis for fixed price work and services or for determining the cost basis for Hourly Labor Rates. If County utilizes a business competitor of Contractor to audit Contractor's records pursuant to this Paragraph 22.1, Contractor may require that such entity, including the entity's employees conducting the audit, execute a confidentiality and non-disclosure agreement regarding any of Contractor's information that is subject to audit. All such material, including, but not limited to, all financial records, time cards, and other employment records, and proprietary data and information, shall be kept and maintained by Contractor and shall be made available to County during the term of this Agreement 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 Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at County's option, Contractor shall transport such material to a location in Los Angeles County or pay County for travel, per diem and other costs incurred by County to examine, audit, excerpt, copy or transcribe such material at such other location.

22.2. In the event that an audit is conducted of Contractor specifically regarding this Agreement by the Metropolitan Transportation Authority or any Federal or State auditor, or by any auditor or accountant who is not an employee of Contractor, then Contractor shall file a copy of such audit report with County's Auditor-Controller and County's Project Director within thirty (30) days of Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Agreement. County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

22.3. Failure on the part of Contractor to comply with the provisions of this Paragraph 22 shall constitute a material breach of this Agreement upon which County may terminate or suspend this Agreement.

23. NOTICES

23.1. All notices or demands required or permitted to be given under this Agreement, unless otherwise specified, shall be in writing and shall be addressed to the parties at the following addresses and delivered: (i) by hand with signed receipt, (ii) by first-class registered or certified mail, postage prepaid, or (iii) 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. Notices 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, or on the date of facsimile or electronic mail transmission if followed by timely confirmation mailing. Addresses may be changed by either party by giving ten (10) days prior written notice thereof to the other party.

23.2. Director of her designee shall have the authority to issue all notices or demands which are required or permitted to be issued by County under this Agreement.

23.3. 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) 979-5319
E-mail: jwhite@ladpw.org

23.4. To Contractor:

Mr. Charles Dankocsik
626 Wilshire Boulevard, Suite 818
Los Angeles, CA 90017-2921

Telephone: (213) 488-2201
Fax: (213) 327-0892
E-mail: chuck.dankocsik@transcore.com

Christine K. Faschini, CPA, CPCM
TransCore
9440 Carroll Park Drive
San Diego, CA 92121
Telephone: (858) 826-4036
Fax: (858) 826-4324
ckfaschini@transcore.com

24. COUNTY'S RESPONSIBILITY

County will make available drawings, specifications and other records available in County's Department of Public Works' files. Notwithstanding the foregoing, County does not represent the accuracy of the content of said materials.

25. RESTRICTIONS ON LOBBYING

25.1. If any Federal funds are to be used to pay for any of Contractor's services under this Agreement, Contractor shall fully comply with all certification and disclosure requirements prescribed by Section 319 of Public Law 101-121 (31 United States Code Section 1352) and any implementing regulations, and shall ensure that each of its Subcontractors receiving funds provided under this Agreement also fully complies with all such certification and disclosure requirements.

25.2. Contractor, and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Contractor, shall fully comply with County's Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County lobbyist or County lobbying firm retained by Contractor 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.

26. DISCLOSURE OF INFORMATION

26.1. General

26.2. Contractor shall not disclose any details in connection with this Agreement, including but not limited to any of its terms or conditions or any circumstances which occur during the performance of this Agreement, to any person or entity except as may be otherwise provided herein or required by law.

26.2.1. Without limiting the generality of this Paragraph 26.2, in the event Contractor receives any court or administrative agency order, service of process or request by any person or entity (other than Contractor's professionals) for disclosure of any such details, Contractor shall immediately notify County's Project Director. Thereafter, Contractor 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, Contractor 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.

26.3. Use of County Name

In recognizing Contractor's need to identify its services and related clients to sustain itself, County shall not inhibit Contractor from publishing its role under this Agreement under the following conditions:

A. Contractor shall develop all publicity material in a professional manner.

B. During the term of this Agreement, Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of County without the prior consent of County's Project Director, which consent shall not be unreasonably withheld.

C. Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Agreement with County, provided that the requirements of this Paragraph 26.3 (other than the requirements set forth in Paragraph 26.2.1 above) shall apply.

27. CONFIDENTIALITY

27.1. Contractor shall maintain the confidentiality of all its records, data and information, including, but not limited to, County records, in accordance with all applicable Federal, State and County laws, regulations, ordinances, guidelines and directives relating to confidentiality. Contractor shall inform all of its officers, employees, and agents performing work hereunder of the confidentiality provisions of this Agreement and shall ensure that each of its officers, employees or agents performing work hereunder has executed, prior to commencing such work, Contractor's standard confidentiality and copyright assignment agreement, sufficient to bind such officer, employee or agent to the confidentiality and non-disclosure provisions of this Agreement. Contractor shall provide to County a copy of its standard confidentiality and copyright assignment agreement upon request for each employee (Exhibit E (Contractor Employee Acknowledgment, Confidentiality and Copyright Assignment Agreement)) performing or providing Work under this Agreement. Notwithstanding the foregoing, Contractor shall have no obligation with respect to the disclosure of confidential information that can be established to have: (a) been known publicly; (b) become known publicly without fault on the part of Contractor without any obligation of confidentiality from a source lawfully having possession of such information; or (c) been disclosed pursuant to an order of a court of competent jurisdiction.

27.2. Contractor shall indemnify, defend and hold harmless County, its officers, employees and agents from and against any and all loss, damage, liability and expense including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, arising from or related to any disclosure of such records and information by Contractor, its officers, employees, agents or subcontractors, except for any disclosure authorized by this Paragraph 27. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 27 shall be conducted by Contractor and performed by counsel selected by Contractor 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 Contractor 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.

27.3. Contractor acknowledges that a breach by Contractor of this Paragraph 27 may result in irreparable injury to County that may not be adequately compensated by monetary damages and

that, in addition to County's other rights under this Paragraph 27 and at law in equity, County shall have the right to injunctive relief to enforce the provisions of this Paragraph 27.

28. WARRANTY

28.1. General Warranties

Contractor hereby represents and warrants that any Tasks, Subtasks, goods, services or other Work provided or delivered by Contractor pursuant to this Agreement shall be free from any and all Deficiencies and shall meet the requirements set forth in Exhibit A (Statement of Work) and this Agreement.

28.2. Correction of Deficiencies

Contractor shall promptly upon notice correct any and all non-conformances with Exhibit A (Statement of Work), Deficiencies, errors or omissions in any Tasks, Subtasks, Deliverables, goods, services and other Work provided or developed by Contractor pursuant to this Agreement during the Term. The correction of all such non-conformances with Exhibit A (Statement of Work), Deficiencies, errors or omissions shall be at no additional cost to County beyond the Maintenance Fee.

28.3. Further Warranties

Contractor further represents, warrants, covenants and agrees that throughout the Term:

A. Contractor represents and warrants that (a) Contractor has the full power and authority to grant a license and all other rights granted by this Agreement to County, (b) no consent of any other person or entity is required by Contractor to grant such rights other than consents that have been obtained and are in effect, (c) County is entitled to use the System Software without interruption of system use, subject only to County's obligation to make the required payments under this Agreement and to compliance with the terms of any applicable license agreement, including applicable third party license agreements, (d) this 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 Contractor's creditors, (e) during the Term, Contractor 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 System, and any part thereof in accordance with this Agreement, and (f) neither the performance of this Agreement by Contractor, nor the license to, and use by, County and its users of the System in accordance with this Agreement will in any way violate any non-disclosure Agreement, nor, to the best of Contractor'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.

B. Contractor bears the full risk of loss due to total or partial destruction of all or any part of the System Software acquired from Contractor, as applicable, until the System Acceptance Date for each Task.

C. Contractor shall, in the performance of all Work strictly comply with the descriptions and representations (including Documentation, performance capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, functions and requirements) as set forth in the Statement of Work, provided, however, that Contractor shall have the right to correct Deficiencies, pursuant to Paragraph 10 (Deficiencies).

D. All Tasks, subtasks, Deliverables, goods, services, and other Work shall be completed in accordance with this Agreement, including the Project Schedule set forth on Appendix B (Project Schedule), Documentation and manufacturer's specifications and shall be performed in a timely and professional manner by qualified personnel and, if appropriate, licensed or certified personnel.

E. All Documentation developed under this Agreement shall be uniform in appearance.

F. The System Software shall be fully Compatible with and shall fully integrate, perform, and function with (a) the operating system software specified by Contractor, and (b) the System Hardware that conforms to the specifications set forth on Appendix C (System Hardware Compatibility Specifications) to each Schedule of Work.

G. Updates that are provided pursuant to Contractor's obligation to provide Maintenance Services will be Compatible with (a) the operating system software then currently installed at County pursuant to the terms of this Agreement, and (b) the System Hardware set forth on Appendix C (System Hardware Compatibility Specifications) to each Schedule of Work or Contractor will provide backward functionality to maintain such Compatibility.

H. Contractor shall not cause any unplanned interruption of the operations of, or accessibility to the System or any 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 System or any System component by County or any user or which could alter, destroy, or inhibit the use of the System, any System component, or the data contained therein. Contractor represents, warrants and agrees that it has not purposely placed, nor is it aware of, any Disabling Device on any System component provided to County under this Agreement, nor shall Contractor knowingly permit any subsequently delivered System component to contain any Disabling Device.

I. Contractor 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 Hardware or Third Party Software or any other product or service provided hereunder shall fully extend to and be enjoyed by County.

J. Contractor shall support all System Software and System Software components licensed or otherwise provided and approved pursuant to this Agreement, including any Updates and Custom Programming Modifications, installed at any County facility, or licensed to County hereunder.

K. All data analysis and working papers generated by Contractor and under Contractor's control shall be available to County during the term of this Agreement and for a minimum period of five (5) years thereafter.

28.4. Breach of Warranty Obligations

In the event Contractor fails to timely perform its warranty obligations set forth in this Paragraph 28 or Paragraph 29 (System Warranty), County may perform any required correction or other work and debit Contractor therefor at County's direct actual cost of outside labor and materials and County's burdened labor rates (including salary, employee benefits, and applicable reimbursement policies) to remedy any failure to conform to the provisions of this Agreement.

28.5. Disclaimer of Other Warranties

The express warranties, if any, contained in this Agreement are the sole and exclusive warranties provided by Contractor. Contractor specifically disclaims any other warranties, express or implied, including but not limited, to warranties of merchantability or fitness for a particular purpose, as well as any warranties alleged to have arisen from custom, usage or past dealings between the parties.

29. SYSTEM WARRANTY

A Warranty Period shall apply to each System Acceptance achieved under each Schedule of Work, Final System Acceptance and any Custom Programming Modifications provided pursuant to Change Order following Final System Acceptance. The Warranty Periods shall be twelve (12) months in duration and shall commence, as applicable, (a) on the individual System Acceptance Date pursuant to such Schedule of Work; (b) on the Final System Acceptance Date ("Final System Acceptance Warranty Period"); and (c) the date County accepts the Custom Programming Modifications provided pursuant to Change Order. Contractor hereby represents, warrants and covenants to County that: (i) for each Warranty Period applicable to a Schedule of Work or Custom Programming Modification, the Task(s) delivered under the Schedule of Work or Change Order for such Custom Programming Modification shall perform fully in accordance with the specifications or any amendments thereto; and (ii) for the Warranty Period applicable to the Final System Acceptance Date, the System taken as a whole (including all modules, Customizations, Interfaces, Custom Programming Modifications and Updates) is Compatible and shall perform fully in accordance with the specifications or any amendments thereto.

30. WARRANTY AGAINST CONTINGENT FEES

30.1. Contractor represents and 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 Contractor for the purpose of securing business.

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

31. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION

31.1. Contractor shall not assign its rights and/or delegate its duties under this Agreement, whether in whole or in part, without the prior written consent of County, in its sole discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this Paragraph 31, County's consent shall require a written Amendment to this Agreement, which is formally approved and executed by both parties. Any payments by County to any approved delegatee or assignee on any claim under this Agreement, in consequence of any such consent, shall reduce dollar for dollar any claims which Contractor may have against County and shall be subject to set off, recoupment or other reduction for any claims which County may have against Contractor.

31.2. Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person, 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 31.1 of this Agreement.

32. CONTINUOUS PRODUCT SUPPORT

If Contractor assigns or transfers this Agreement to a permitted assignee and subsequent to such assignment, the System is not supported to at least the same level that Contractor supported the System, as determined by County's Project Director (because, for example, Contractor's permitted assignee chooses to support other products in preference to the products licensed herein), or, absent any assignment or transfer, and except in respect of any conversions to products already addressed and budgeted for in the Statement of Work, upon eighteen (18) months prior written request by Contractor and at County's sole discretion, waives Contractor's obligation to continue providing Maintenance Services in respect of the System under Paragraph 28.3 (Further Warranties) and Paragraph 29 (System Warranty) (if for example, Contractor generally is ceasing support of the product), then in either instance County, at its option and without limiting or altering its License rights or rights to System Software Source Code, may elect to transfer the License or maintenance without cost or penalty, to another similar product ("Replacement Product") within Contractor's, or Contractor's permitted

assignee's, if applicable, product offering. The assignee, by taking benefit (including, without limitation, acceptance of any payment under this Agreement) shall be deemed to have ratified this Paragraph 32. All terms and conditions of this Agreement shall continue in full force and effect for the Replacement Product. In addition, the following terms and conditions shall apply if County elects to transfer the License or maintenance to a Replacement Product:

32.1. Any prepaid Maintenance Services for the System shall transfer in full force and effect for the balance of the Replacement Product's maintenance and support term (or equivalent service) at no additional cost. If the prepaid moneys are greater than the Replacement Product'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;

32.2. Any and all modules of the Replacement Product or otherwise offered separately, and needed to match the original System's level of functionality, as determined by County's Project Director, shall be supplied by Contractor's permitted assignee without additional cost or penalty, and shall not affect the calculation of any maintenance and support fees;

32.3. All County users and support personnel shall receive reasonable training for purposes of learning the Replacement Product. Training shall be provided at no additional cost to County or users;

32.4. All License and maintenance terms and conditions shall remain as granted herein with no additional fees imposed on County; and

32.5. The definition of System shall then include the Replacement Product.

33. INDEPENDENT CONTRACTOR STATUS

33.1. This Agreement is by and between Contractor and County and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture or association, as between Contractor and County. 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. Contractor shall function as, and in all respects is, an independent contractor.

33.2. Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement, all compensation and benefits. County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, liability insurance, workers' compensation insurance and benefits, payroll taxes including Federal, State and local taxes, or other compensation, benefits or taxes for any personnel provided by or performing work on behalf of Contractor.

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

33.4. Notwithstanding the provisions of this Paragraph 33, the employees and agents of Contractor shall, while on the premises of County, comply with all rules and regulations of the premises, including, but not limited to, security requirements.

34. SUBCONTRACTING

34.1. County has relied, in entering into this Agreement, on the reputation of and on obtaining the personal performance of Contractor itself. Consequently, no performance of this Agreement, or any portion thereof, shall be subcontracted by Contractor without the prior written consent of County as provided in this Paragraph 34. Any attempt by Contractor to subcontract any performance, obligation or responsibility under this Agreement without the prior written consent of County shall be null and void and shall constitute a material breach of this Agreement upon which County may immediately terminate this Agreement. Contractor shall notify all potential Subcontractors of the provisions of this Paragraph 34.

34.2. If Contractor desires to subcontract any portion of its performance, obligations or responsibilities under this Agreement, or desires to subcontract any Task in its entirety, Contractor shall provide to County, in writing, a request for written approval to enter into the particular subcontract, which request shall include:

A. The reason(s) for the particular subcontract;

B. Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected;

C. A detailed description of the work to be performed by the proposed subcontractor;

D. Confidentiality provisions applicable to the proposed subcontractor's officers, employees and agents, which would be incorporated into the subcontract;

E. A draft copy of the proposed subcontract agreement which shall, at a minimum: (1) include representations and warranties by subcontractor that subcontractor (a) is qualified to perform the work for which subcontractor has been hired, (b) maintains the insurance required by this Agreement, and (c) is solely liable and responsible for any and all of its taxes, payments and compensation, including compensation to its employees; (2) provide for indemnification by subcontractor of County and Contractor under the same terms and conditions as the indemnification provisions of this Agreement set forth in Paragraph 12.1 (Indemnification) and Paragraph 21 (Intellectual Property Indemnification); and (3) include Exhibit E (Contractor Employee Acknowledgment, Confidentiality and Copyright Assignment Agreement), Exhibit F (Contractor's EEO Certification), and the Safely Surrendered Baby Law Fact Sheet available on the Internet at www.babysafela.org, thereto; and

F. Any other information and/or certifications which may be requested by County, including Copies of Certificates of Insurance from the proposed

Subcontractor which establish that the Subcontractor maintains all the programs of insurance required by this Agreement.

34.3. County will review Contractor's request to subcontract and determine, in its sole discretion, whether or not to consent to such request on a case-by-case basis.

34.4. Contractor shall indemnify, defend and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, liabilities, damages, costs, and expenses, including, but not limited to, reasonable defense costs and legal, accounting, or other expert consulting or professional fees in any way directly or indirectly arising from or related to Contractor's use of any subcontractor, including, without limitation, any officers, employees, or agents of any subcontractor, in the same manner as required for Contractor, its officers, employees, and agents, under this Agreement. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 34.4 shall be conducted by Contractor and performed by counsel selected by Contractor 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 Contractor 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.

34.5. Notwithstanding any County consent to any subcontracting, Contractor shall remain fully responsible for any and all performance required of it under this Agreement, including, but not limited to, the obligation to properly supervise, coordinate and perform all work required hereunder. All subcontracts shall be made in the name of Contractor and shall not bind nor purport to bind County. Further, County approval of any subcontract or subcontractor shall not be construed to limit in any way Contractor's performance, obligations or responsibilities to County, nor shall such approval limit in any way any of County's rights or remedies contained in this Agreement. Additionally, County approval of any subcontract or subcontractor shall not be construed in any way to constitute the determination of the allowableness or appropriateness of any cost or payment under this Agreement.

34.6. County's consent to any subcontracting shall not waive County's right to prior and continuing approval of any and all personnel, including subcontractor employees, providing services under this Agreement. Contractor shall notify its subcontractors of this County's right prior to subcontractors commencing performance under this Agreement. Contractor shall ensure that any subcontractor personnel not approved in writing by County shall be immediately removed from the provision of any services under the particular subcontract or that other action is taken as requested by County.

34.7. Further, in the event that County consents to any subcontracting, such consent shall be subject to County's right to terminate, in whole or in part, any subcontract at any time upon written notice to Contractor when such subcontractor is deemed by County to be in material breach of its subcontract or this Agreement or when such termination, in whole or in part, is deemed by County to be in its best interest. County shall not be liable or responsible in any way to Contractor, to any subcontractor, or to any officers, employees or agents of Contractor or any subcontractor, for any claims, demands, damages, liabilities, losses, costs or expenses, including,

but not limited to, 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.

34.8. In the event that County consents to any subcontracting, the subcontractor, on behalf of itself, its successors and administrators, shall assume in writing and be bound by and shall be deemed to have assumed and agreed to be bound by each and all of the provisions of this Agreement and any Amendment hereto.

34.9. The Director or his/her designee is hereby authorized to act for and on behalf of County pursuant to this Paragraph 34.9, including, but not limited to, consenting to any subcontracting.

34.10. Notwithstanding County's consent to any subcontracting, Contractor shall be solely liable and responsible for any and all payments and other compensation to all subcontractors and their officers, employees, agents and successors in interest for any services performed by subcontractors under this Agreement. County shall have no liability or responsibility whatsoever for any payment or other compensation for any subcontractors or their officers, employees, and agents.

34.11. In the event that County consents to any subcontracting, for each subcontract entered into by Contractor, Contractor shall deliver a fully executed copy of each such subcontract to County's Project Director, 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, which subcontract at a minimum shall include provisions sufficient to bind each officer, employee or agent of the proposed subcontractor to the confidentiality and non-disclosure provisions of this Agreement.

34.12. In the event that County consents to any subcontracting, such consent shall apply to each particular subcontract only and shall not be, or be construed to be, a waiver of this Paragraph 34 or a blanket consent to any further subcontracting.

35. COMPLIANCE WITH APPLICABLE LAWS

35.1. Contractor'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 46 (Termination for Default), Contractor 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.

35.2. Contractor shall indemnify, defend and hold harmless County, its officers, employees and agents from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, 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 Contractor, its employees, agents or subcontractors of any such laws, rules, regulations, ordinances or directives. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 35.2 shall be conducted by Contractor and performed by counsel selected by

Contractor 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 Contractor 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.

36. FAIR LABOR STANDARDS ACT

Contractor 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, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by Contractor's employees for which County may be found jointly or solely liable. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 36 shall be conducted by Contractor and performed by counsel selected by Contractor 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 Contractor 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.

37. ANTI-DISCRIMINATION AND COMPLIANCE WITH CIVIL RIGHTS LAWS

37.1. Contractor certifies and agrees that all persons employed by Contractor, its affiliates, subsidiaries and holding companies are, and will be, treated equally by Contractor without regard to or because of race, religion, ancestry, national origin, sex, age, physical or mental handicap, marital status, sexual orientation or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

37.2. Contractor shall, pursuant to Section 4.32.010 et seq. of the Los Angeles County Code, comply with the provisions of Contractor's EEO Certification.

37.3. Contractor shall ensure that applicants and employees are treated equally during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental handicap, marital status, sexual orientation or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

37.4. Contractor further certifies and agrees that it will deal with its subcontractors, bidders and vendors without regard to or because of race, religion, ancestry, national origin, sex, age, physical or mental handicap, marital status, sexual orientation or political affiliation, except to the extent necessary to comply with applicable Federal and State anti-discrimination laws and regulations.

37.5. Contractor certifies that it, its affiliates, subsidiaries and holding companies are in compliance with all Federal, State, and local laws, including, but not limited to:

1) Title VII, Civil Rights Act of 1964;

2) Section 504, Rehabilitation Act of 1973;

3) Age Discrimination Act of 1975;

4) Title IX, Education Amendments of 1973, as applicable; and

5) Title 43, Part 17, Code of Federal Regulations, Subparts A and B,

and that no person shall, on the grounds of race, creed, color, national origin, political affiliation, marital status, sex, age, or handicap, be subject to discrimination as to any privileges or uses gained under this Agreement or under any project, program or activity supported by this Agreement.

37.6. Contractor shall allow County representatives access to its employment records during regular business hours to verify compliance with the provisions of this Paragraph 37 when so requested by County.

37.7. Contractor specifically recognizes and agrees that if County finds that any of the provisions of this Paragraph 37 have been violated, such violation shall, at the election of County, constitute a material breach of this Agreement upon which County may cancel, terminate or suspend this Agreement. While County reserves the right to determine individually 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 Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Agreement.

37.8. The parties agree that in the event Contractor is found to have violated the anti-discrimination provisions of this Agreement, and that such discrimination was directly associated with the performance of services provided hereunder, County may require, pursuant to Los Angeles Code Section 4.32.010(E), that Contractor pay the sum of Five Hundred Dollars ($500) for each such violation in lieu of canceling, terminating or suspending this Agreement, as liquidated damages are extremely difficult to ascertain or calculate precisely. County and Contractor specifically agree that the aforesaid amount shall be imposed as liquidated damages, and not as a forfeiture or penalty. In the alternative, County may elect to terminate this Agreement pursuant to Paragraph 46 (Termination for Default).

38. EMPLOYMENT ELIGIBILITY VERIFICATION

38.1. Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding employment of aliens and others and that all its employees performing services hereunder meet the citizenship or alien status requirements contained in Federal and State statutes and regulations.

38.2. Contractor shall obtain, from all employees performing work under this Agreement, prior to commencing work hereunder, all verifications 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. Contractor shall retain such documentation for all covered employees for the period prescribed by law.

38.3. Contractor shall indemnify, defend and hold harmless County, its officers, employees and agents from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including but not limited to defense costs and legal, accounting and other expert, consulting or professional fees, arising out of or in connection with any employer sanctions and any other liability which may be assessed against Contractor or County in connection with any alleged violation of Federal or State statutes or regulations pertaining to the eligibility for employment of persons performing services under this Agreement. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 38 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County in writing, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, County shall have the right to participate in any such defense, at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as required by law or this Agreement, County shall be entitled to reimbursement for all such costs and expenses.

39. REDUCTION OF SOLID WASTE

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

40. WAIVER

No breach by Contractor of any provision of this Agreement can be waived unless done in writing. 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 Paragraph 40 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

Without limitation of the foregoing, County may deduct from amounts otherwise payable to Contractor hereunder County's damages for Contractor's breach of any provision hereof. The preceding sentence is intended only as a clarification of County's remedies in the event of breach, and shall not be deemed to impair any claims that Contractor may have against County or Contractor's rights to assert such claims pursuant to Paragraph 53 (Dispute Resolution Procedure).

41. GOVERNING LAW, JURISDICTION AND VENUE

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California applicable to agreements made and to be performed within the State. Contractor hereby agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that the venue of any

action brought by Contractor, on Contractor's behalf, or on the behalf of any subcontractor, which arises from this Agreement or is concerning or connected with work performed pursuant to this Agreement, shall be exclusively in the Los Angeles County, California. As with respect to claims that are subject to exclusive Federal subject matter jurisdiction, Contractor agrees and consents to the exclusive jurisdiction of the Federal District Court of the Central District of California.

42. VALIDITY AND SEVERABILITY

42.1. Validity

The invalidity, unenforceability or illegality of any provision of this Agreement shall not render the other provisions hereof invalid, unenforceable or illegal, unless the essential purposes of this Agreement shall be materially impaired thereby.

42.2. 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, void, illegal, or unenforceable in any respect by any court of competent jurisdiction, such provision shall be deemed severable from the remainder of this Agreement, if practicable, and the validity, legality or enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

43. COUNTY RIGHTS

County may employ, either during or after performance of this contract, any right of recovery County may have against Contractor by any means it deems appropriate including, but not limited to, set-off, action at law or in equity, withholding, recoupment, or counterclaim. The rights and remedies of County under this Agreement are in addition to any right or remedy provided by California law.

44. TERMINATION FOR IMPROPER CONSIDERATION

County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, Amendment or extension of this Agreement or the making of any determinations with respect to Contractor's performance pursuant to this Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

45. TERMINATION FOR INSOLVENCY

45.1. County may terminate this Agreement immediately at any time following the occurrence of any of the following:

A. Insolvency of Contractor. Contractor shall be deemed to be insolvent if it 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 Contractor is insolvent within the meaning of the United States Bankruptcy Code, provided that Contractor shall not be deemed insolvent if it has ceased in the normal course of business to pay its debts which are disputed in good faith and which are not related to this Agreement as determined by County;

B. The filing of a voluntary or involuntary petition to have Contractor declared bankrupt, where the involuntary petition is not dismissed within sixty (60) days;

C. The appointment of a Receiver or Trustee for Contractor; or

D. The execution by Contractor of a general assignment for the benefit of creditors.

45.2. The rights and remedies of County provided in this Paragraph 45 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

45.3. Contractor agrees that if Contractor as a debtor-in-possession, or if a trustee in bankruptcy, rejects this Agreement, County may elect to retain its rights under this Agreement, as provided under Section 365(n) of the United States Bankruptcy Code (11 United States Code, Section 365(n)). Upon written request of County to Contractor or the trustee in bankruptcy, as applicable, Contractor or such trustee shall allow County to exercise all of its rights and benefits under this Agreement including, without limitation, such Section 365(n), (including the right to continued use of all source and object code versions of the System Software and 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 this Agreement for any reason whatsoever.

46. TERMINATION FOR DEFAULT

46.1. County may, by written notice to Contractor, terminate the whole or any part of this Agreement if, in the sole judgment of County's Project Director:

A. Contractor fails to perform or provide any Task, Subtask, Deliverable, goods, service or other Work, including achievement of any System Acceptance or Final System Acceptance, within the times specified in this Agreement or any authorized extensions thereof; or

B. Contractor fails to demonstrate a high probability of timely fulfillment of the performance requirements under this Agreement; or

C. Contractor fails to perform or comply with any of the other provisions of this Agreement, including applicable notice and cure periods, or materially breaches this Agreement; or

D. So fails to make progress as to endanger performance of this Agreement in accordance with its terms;

and, unless a shorter cure period is expressly provided in this Agreement, does not cure such failure or fails to correct such material breach within a period of thirty (30) days (or such longer period as County may authorize in writing) of receipt of written notice from County specifying such failure or breach, except that Contractor shall not be entitled to any cure period, and County may terminate immediately, in the event that Contractor's failure to perform or comply is not reasonably capable of being cured.

46.2. Deemed Termination of Convenience. If, pursuant to the preceding Paragraph 46.1, County has terminated this Agreement upon the expiration of, or without providing a, cure period and, subsequently, a final and binding determination is made that the default was capable of being cured or Contractor otherwise was not in default hereunder, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 47.1 (Termination for Convenience). Nothing in this Paragraph 46.2 shall in any way limit or modify any rights of County or obligations of Contractor relating to timely performance by Contractor as otherwise set forth in this Agreement.

46.3. In respect of Maintenance Services, immediately upon notice to Contractor, if on two separate occasions in any single calendar month, or more than four times in the aggregate, during the Term, Contractor fails to timely correct any Deficiency pursuant to the service level schedule set forth in Exhibit C (Maintenance and Support).

46.4. In the event that County terminates this Agreement in whole or in part as provided in Paragraph 45 (Termination for Insolvency) or this Paragraph 46 (Termination for Default), then:

A. County shall have the right to procure, upon such terms and in such a manner as County may deem appropriate, goods, services and other work similar to those so terminated, and Contractor shall be liable to County for, and shall promptly pay to County by cash payment, any and all excess costs reasonably incurred by County, as determined by County, to procure and furnish such similar goods, services and other work;

B. Contractor shall continue the performance of this Agreement to the extent not terminated under the provisions of Paragraph 45 (Termination For Insolvency) of this Agreement or this Paragraph 46;

C. Contractor shall transfer possession and deliver to County all completed Work and Work in progress, in a media reasonably requested by County. It is expressly understood by and between the parties that Contractor cannot and will not provide any warranty of fitness for work in progress transferred pursuant to this Paragraph 46;

D. Contractor shall promptly return to County any and all of County's confidential information, including Physical Materials and County Materials, that relate to that portion of the Agreement or Work terminated by County; and

E. County shall have the rights set forth in Paragraphs 15 (License Terms) and 17 (Source Code Retention) to access and use the Source Code as set forth therein, including the right to modify all source and object code versions of the System Software after such time as one of the Release Conditions has occurred which would permit County to use the Source Code.

46.5. Transition Services. Contractor understands and agrees that County has obligations that it cannot satisfy without use of the System or an equivalent system, and that a failure to satisfy such obligations could result in irreparable damage to County and the entities it serves. Contractor agrees that in the event of any termination of this Agreement, as a result of the breach hereof by either party, or for any other reason, Contractor shall fully cooperate with County in the transition by County to new System Software, toward the end that there be no interruption of the Department's day to day operations due to the unavailability of the System Software during such transition. Contractor agrees that if County terminates this Agreement pursuant to Paragraph 47 (Termination for Convenience; Suspension), Contractor shall perform transition services, and shall invoice County for such transition services determined in accordance with the rate for Additional Services as set forth in Exhibit B (Price), in accordance with a transition plan to be agreed upon, in advance, by County's Project Director and Contractor's Project Director. Contractor further agrees that in the event County terminates this Agreement for any other reason, Contractor shall perform transition services at its own expense. In connection with the provision of any transition services pursuant to this Paragraph 46.4, Contractor shall provide to County's Project Director, on request by County's Project Director, documentation that reasonably details the source and amount of the expenses Contractor purports to have incurred in the provision of such transition services.

46.6. Completion of Work

Without limiting any of County's rights and remedies pursuant to this Agreement, upon the occurrence of any event giving rise to County's rights to terminate this Agreement, in whole or in part, pursuant to this Paragraph 46 (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 Contractor 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 Contractor under this Agreement. In the event County elects to proceed under this Paragraph 46.6, any Work created, modified, or repaired by or at the direction of County (including software) shall be deemed Work under this Agreement, and Contractor's obligations in respect of Maintenance Services shall extend to such Work as if such Work had been prepared and delivered to County by Contractor. County shall provide Contractor such documentation in County's possession or control as reasonably requested by Contractor as is necessary for Contractor to provide Maintenance Services in respect of such Work. Nothing in

this Paragraph 46.6 is intended to give County the right to take any actions with respect to the System Software which is prohibited by the License under this Agreement.

46.7. The rights and remedies of County provided in this Paragraph 46 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

47. TERMINATION FOR CONVENIENCE; SUSPENSION

47.1. Termination for Convenience

47.1.2. This Agreement may be terminated, in whole or in part, permanently or from time to time, when such action is deemed by County to be in its interest. Termination of Work hereunder shall be effected by delivery to Contractor of a notice of termination specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent.

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

A. Stop work under this Agreement on the date and to the extent specified in such notice;

B. Transfer title to all System Components other than such components as are licensed to County pursuant to the terms of this Agreement, upon payment by County to Contractor, subject to Paragraph 47.1.4, for the completed System Components and System Components in progress for which Contractor received a Task Order and County's Project Director approved a Schedule of Work, pursuant to Paragraph 5.2.2.

C. Contractor shall promptly return to County any and all of County's confidential information, including Physical Materials and County Materials, that relate to that portion of the Agreement or Work terminated by County;

D. Complete performance of such part of the work as shall not have been terminated by such notice; and

E. Transfer possession and deliver to County copies of completed work and work in progress, upon payment by County to Contractor, subject to Paragraph 47.1.4, for the completed work and work in progress for which Contractor received a Task Order and County's Project Director approved a Schedule of Work, pursuant to Paragraph 5.2.2. It is expressly understood by and between the parties that Contractor cannot and will not provide any warranty of fitness for work in progress transferred pursuant to this Paragraph 47.1.3.

47.1.4. County and Contractor shall negotiate an equitable amount to be paid Contractor by reason of the total or partial termination of work pursuant to this Paragraph 47.1, which amount shall include a reasonable allowance for profit on work completed and in progress, but shall not include any allowance on work terminated. County shall pay the agreed amount, provided that

such amount shall not exceed the total funding obligated under this Agreement as reduced by the amount of payments otherwise made and as further reduced by this Agreement price of work terminated.

47.1.5. For a period of five (5) years after final settlement under this Agreement, Contractor shall make available to County, at all reasonable times, all its books, records, documents or other evidence bearing on the costs and expenses of Contractor under this Agreement with respect to the termination of work hereunder. All such material shall be maintained by Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at County's option, Contractor shall pay County for travel, per diem, and other costs incurred by County to examine, audit, excerpt, copy or transcribe such material at such other location.

47.1. The rights and remedies of County set forth in this Paragraph 47 are not exclusive of any other rights and remedies available to County at law or in equity, or under the Agreement.

47.2. Suspension

47.2.1. County, at its convenience, and without further liability except as herein specified, may suspend this Agreement, in whole or in part, by written notice personally delivered to Contractor specifying the effective date and extent of the suspension.

47.2.2. Contractor shall immediately discontinue all services unless otherwise indicated by Director.

47.2.3. Upon written request from Director, Contractor 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 System, whether complete or in progress, as may have been accumulated by Contractor and not previously delivered to County as a Deliverable hereunder (collectively, "Work-in-Progress"). Upon receipt thereof, including delivery to County of an invoice reflecting in reasonable detail the basis for determining Contractor's actual direct costs for such Work-in-Progress, County shall pay to Contractor an amount equal to Contractor's actual direct costs plus ten percent (10%) of such amount, which the parties agree is a fair and reasonable profit for the Work-in-Progress, provided that the total payments pursuant to this Paragraph 47.2.3 shall not exceed the specified Agreement prices as set forth in Exhibit B (Price). If Contractor is directed to remobilize after suspension, all amounts paid to Contractor pursuant to this Paragraph 47.2.3 shall be credited towards the specified Agreement prices as set forth in Exhibit B (Price) in respect of any Work-in-Progress that becomes a Deliverable.

47.2.4. In the event the entire Agreement is suspended for longer than three (3) months, County shall pay Contractor 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 this Agreement is suspended.

47.2.5. In the event the entire Agreement is suspended for longer than three (3) months and Contractor 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 Contractor's option, Contractor and County shall renegotiate Contractor'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 County's convenience.

47.2.6. 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.

47.3. No Prejudice; Sole Remedy

Nothing in this Paragraph 47 (Termination for Convenience; Suspension) is deemed to prejudice any right of Contractor 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 or suspension. Contractor, however, acknowledges that the rights and remedies set forth in this Paragraph 47.3 shall be the only remedy available to Contractor in the event of a termination or suspension pursuant to this Paragraph 47 (Termination for Convenience; Suspension) by County.

48. FORCE MAJEURE

Except with respect to defaults of any subcontractor(s), Contractor shall not be liable for any delays in the completion of work under this Agreement, if its failure to perform arises out of causes beyond the reasonable control and without any fault or negligence of Contractor, limited to acts of God or of the public enemy, acts of Federal or State governments in their sovereign capacities, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather; but in every case, the failure to perform must be beyond the reasonable control and without any fault or negligence of Contractor and Contractor must file timely a notice of delay pursuant to Paragraph 49 (Notice of Delay).

If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the reasonable control of both Contractor and subcontractor, and without any fault or negligence of either of them, and provided Contractor has timely filed a notice of delay pursuant to Paragraph 49 (Notice of Delay), Contractor shall not be liable for reasonable delays in the completion of work, unless the goods and/or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule. Contractor agrees to use all reasonable commercial efforts to obtain such goods and/or services from other sources. As used in this Paragraph 48, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

Notwithstanding anything herein to the contrary, County shall not be liable for any additional costs incurred by Contractor or any subcontractor hereto arising out of or resulting from the above mentioned force majeure events.

49. NOTICE OF DELAY

In the event Contractor determines at any time that failure, delay, or inadequacy of performance of any of County's obligations hereunder, including failures and delays arising from force

majeure events, may prevent or tend to prevent Contractor from completing any of Contractor's obligations in a timely manner, or may cause or tend to cause Contractor to incur additional or unanticipated costs or expenses, Contractor shall promptly following such determination (and without limiting Contractor's obligation of prompt notification, in any event within fifteen (15) days following such determination), notify County's Project Director in writing, which notice shall specify in reasonable detail: 1) any alleged failure, delay, or inadequacy of performance by County, and; 2) to the best knowledge of Contractor after due inquiry and analysis, the estimated impact of such alleged failure, delay, or inadequacy on the performance of Contractor's obligations, including, but not limited to, any estimated delay and any estimated amount of additional or unanticipated costs or expenses that may be incurred. In the event that Contractor fails to fulfill any of its obligations in a timely manner as a direct result of a failure, delay, or inadequacy of performance of any of County's obligations after timely written notice to County by Contractor of such failure, delay, or inadequacy of performance, then the date for Contractor's completion of such obligation may be appropriately extended, as determined in County's sole discretion. Contractor shall take all reasonable actions to mitigate or reduce any delays. In the event Contractor fails to notify County in writing of any alleged failure, delay, or inadequacy of performance in a timely manner as set forth in this Paragraph 49, Contractor shall not be entitled to rely upon such alleged failure, delay or inadequacy of performance for any purpose whatsoever, including, but not limited to, as a purported justification for either: (1) claiming that Contractor is entitled to receive any additional payments from County hereunder, or; (2) failing to fulfill any of Contractor's obligations in a timely manner. This Paragraph 49 shall not be interpreted or construed as expanding in any manner or to any extent the financial obligations of County under this Agreement.

50. CONFLICT OF INTEREST

50.1. No County employee whose position with County enables such employee to influence the award of this Agreement or any competing agreements, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of Contractor, 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.

50.2. Contractor shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the term of this Agreement. Contractor warrants that it is not now aware of any facts which do or could create a conflict of interest. If a party hereafter becomes aware of any facts, which 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, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.

51. DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

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

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

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

52. EMPLOYMENT OF TARGETED FOR LAYOFF OR LAID-OFF COUNTY EMPLOYEES

Should Contractor, or any subcontractor performing more than $250,000 of the contract value, require additional or replacement personnel to perform services under this Agreement other than the performance of a skilled trade, Contractor shall give first consideration for such employment openings to qualified County employees who are targeted for layoff or qualified former County employees who are on a re-employment list during the term of this Agreement.

53. DISPUTE RESOLUTION PROCEDURE

53.1. General

Contractor and County agree to act promptly and diligently to mutually resolve any disputes which may arise with respect to this Agreement. All such disputes shall be subject to the resolution procedures provided in this Paragraph 53 (collectively the "Dispute Resolution Procedure"). Time is of the essence in the resolution of disputes.

53.2. Continued Work

Contractor and County agree that the existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder, except for any performance which County, in its sole and absolute discretion, determines should be delayed as a result of such dispute. County shall continue to pay sums not in dispute during any such period of continued performance.

53.2.1. If Contractor fails to continue without delay its performance hereunder which County, in its sole and absolute discretion, determines should not be delayed as a result of such dispute, then any additional costs which may be incurred by Contractor or County as a result of Contractor's failure to continue to so perform shall be borne by Contractor, and Contractor shall make no claim whatsoever against County for such costs. Contractor shall promptly reimburse County for such Contractor costs, as determined by County, or County may deduct all such additional costs from amount due to Contractor from County, whether under this Agreement or otherwise.

53.2.2. If County fails to continue without delay to perform its responsibilities under this Agreement which County, in its sole and absolute discretion, determines should not be delayed as a result of such dispute, then any additional costs incurred by Contractor or County as a result of County's failure to continue to so perform shall be borne by County, and County shall make no claim whatsoever against Contractor for such costs. County shall promptly reimburse

Contractor for all such additional Contractor costs subject to the approval of such costs by County.

53.3. Dispute Resolution

In the event of any dispute between the parties with respect to this Agreement, Contractor and County shall submit the matter as follows:

53.3.1. Contractor and County shall first submit the matter to County's Project Director and Contractor's Project Manager for the purpose of endeavoring to resolve such dispute.

53.3.2. In the event that County's Project Director and Contractor's Project Manager are unable to resolve the dispute within a reasonable time not to exceed five (5) working days from the date of submission of the dispute, then the matter shall be immediately submitted to Contractor's Western Regional Manager (Michael Mauritz, P.E., and hereinafter referred to in this Paragraph 53 as "Regional Manager") and the Deputy Director of County's Department of Public Works (hereinafter in this Paragraph 53, "County's Deputy Director"). These persons shall have five (5) working days to attempt to resolve the dispute.

53.3.3. In the event that Contractor's Regional Manager and County's Deputy Director are unable to resolve the dispute within a reasonable time not to exceed five (5) working days from the date of submission of the dispute to them, the matter shall be immediately submitted to Contractor's Chief Executive Officer and the Director, but not to Director's designee. These persons shall have five (5) working days to attempt to resolve the dispute.

53.3.4. In the event that at these levels, there is not a resolution of the dispute acceptable to both parties, then each party may assert its other rights and remedies provided under this Agreement and/or its rights and remedies as provided by law.

53.4. Documentation of Dispute Resolution

All disputes utilizing the Dispute Resolution Procedure shall be documented in writing by each party and shall state the specifics of each alleged dispute and all actions taken. The parties shall act in good faith to resolve all disputes. At all three (3) levels described in Paragraph 53.3 (Dispute Resolution), the efforts to resolve a dispute shall be undertaken by conference between the parties' respective representatives, either orally, by face-to-face meetings, by telephone, or in writing by exchange of correspondence.

53.5. Not Applicable to County's Right to Terminate

Notwithstanding any other provision of this Agreement, County's right to terminate this Agreement pursuant to Paragraph 45 (Termination for Insolvency), Paragraph 46 (Termination for Default), Paragraph 47 (Termination for Convenience; Suspension), Paragraph 44 (Termination for Improper Consideration) or any other termination provision hereunder and County's right to seek injunctive relief to enforce the provisions of Paragraphs 16 (Proprietary Considerations) and 27 (Confidentiality) shall not be subject to the Dispute Resolution Procedure. The preceding sentence is intended only as a clarification of County's rights and shall not be deemed to impair any claims that Contractor may have against County or

Contractor's rights to assert such claims after any such termination or such injunctive relief has been obtained.

54. CONSIDERATION OF GREATER AVENUES FOR INDEPENDENCE OR GENERAL RELIEF OPPORTUNITY FOR WORK PROGRAM PARTICIPANTS FOR EMPLOYMENT

Should Contractor require additional or replacement personnel after the Effective Date, Contractor shall give consideration for any such employment openings to participants of County's Department of Public Social Services' Greater Avenues for Independence (GAIN) or General Relief Opportunity for Work (GROW) Program who meet Contractor's minimum qualifications for the open position. County will refer GAIN/GROW participants by job category to Contractor.

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

55. COUNTY'S RIGHT TO RENEGOTIATE

County reserves the right to renegotiate the terms of this Agreement to reduce Contractor's compensation in the event such reduction is necessary, in the sole discretion of County, to achieve County budget restrictions. It is understood that such renegotiations may include consideration of a corresponding reduction of this Agreement's Statement of Work or Project Schedule. Nothing in this Paragraph 55 is intended to diminish County's right to terminate this Agreement as provided herein.

56. MOST FAVORED PUBLIC ENTITY

If Contractor's prices decline, or should Contractor, at any time during the Term, provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality or district of such state at prices below those set forth in this Agreement, then such lower prices shall be extended immediately to County. County shall have the right to utilize a County auditor to verify Contractor's compliance with this Paragraph 56 by review of Contractor's books and records.

57. COUNTY AUDIT SETTLEMENTS

If, at any time during or after the term of this Agreement, representatives of County conduct an audit of Contractor regarding the work performed under this Agreement, and if such audit finds that County's dollar liability for any such work (subject to restrictions in respect of the determination of the cost basis for work and Hourly Labor Rates set forth in Section 22.1) is less than payments made by County to Contractor, then the difference, together with County's costs of audit, shall, at County's sole discretion, either (i) be repaid by Contractor to County by cash payment upon demand or, (ii) be deducted from any amounts due to Contractor from County, whether under this Agreement or otherwise, provided that such audit shall not affect the specified Agreement prices as set forth in Exhibit B (Price) . If such audit finds that County's dollar liability for such work is more than the payments made by County to Contractor, then the difference shall be paid to Contractor by County, but in no event shall County's payments to

Contractor exceed the Maximum Contract Sum identified in Paragraph 4 (Maximum Contract Sum).

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

Contractor 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.

As required by County's Child Support Compliance Program (Los Angeles County Code Chapter 2.200) and without limiting Contractor's duty under this Agreement to comply with all applicable provisions of law, Contractor 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 ("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).

59. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 58 (Contractor's Warranty of Adherence to County's Child Support Compliance Program) shall constitute a default by Contractor 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 46 (Termination for Default) and pursue debarment of Contractor pursuant to County Code Chapter 2.02.

60. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirement set forth in Internal Revenue Service Notice 1015.

61. COUNTY'S QUALITY ASSURANCE PLAN

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

and/or corrective action measures taken by County and Contractor. If improvement does not occur consistent with the corrective action measures, County may, at its sole option, terminate this Agreement, in whole or in part, pursuant to Paragraph 46 (Termination for Default) or Paragraph 47 (Termination for Convenience) or impose other penalties as specified in this Agreement.

62. CONTRACTOR EMPLOYEE JURY SERVICE PROGRAM

62.1. Jury Service Program

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

62.2. Written Employee Jury Service Policy

62.2.1. Unless Contractor has demonstrated to County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the Los Angeles County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the Los Angeles County Code), Contractor shall have and adhere to a written policy that provides that its Employees (as defined in Paragraph 62.2.2 below) shall receive from Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with Contractor or that Contractor deduct from the Employee's regular pay the fees received for jury service.

62.2.2. For purposes of this Paragraph 62, "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 forty (40) hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of ninety (90) days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for County under this Agreement, the subcontractor shall also be subject to the provisions of this Paragraph 62. The provisions of this Paragraph 62 shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

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

Contractor demonstrate to County's satisfaction that Contractor either continues to remain outside the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.

62.2.4. Contractor's violation of this Paragraph 62 may constitute a material breach of this Agreement. In the event of such material breach, County may, in its sole discretion, terminate this Agreement with Contractor and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

63. VENDOR REGISTRATION WITH THE COUNTY OF LOS ANGELES

All potential bidders/proposers with County are required to register in WebVen and have a valid vendor number assigned to them. The vendor number is required by the Auditor-Controller and is necessary for any payments to be made to a contractor who is awarded a County project. Vendor registration can be done online at http://camisvr.co.la.ca./webven/ or by calling County's Internal Service Department Central Purchasing Vendor Relations Unit at (323) 267-2650. Contractor's payments under this Agreement will be delayed unless and until Contractor obtains a valid vendor number.

64. CONTRACTOR RESPONSIBILITY AND DEBARMENT

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

64.2. Contractor is hereby notified that, in accordance with Chapter 2.202 of the Los Angeles County Code, if County acquires information concerning the performance of Contractor on this Agreement or other contracts which indicates that Contractor is not responsible, County may, in addition to other remedies provided in this Agreement, debar Contractor from bidding on County contracts for a specified period of time not to exceed three (3) years, and terminate any or all existing contracts Contractor may have with County.

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

64.4. If there is evidence that Contractor may be subject to debarment, the Department will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before County's Contractor Hearing Board.

64.5. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. Contractor and/or Contractor's representative shall be given an

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

64.6. 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.

64.7. The terms and procedures of this Paragraph 64 shall also apply to subcontractors and consultants of Contractor performing working under this Agreement.

65. PROHIBITION FROM INVOLVEMENT IN BIDDING PROCESS

Contractor understands and agrees that neither it nor its subsidiaries shall be involved in any way in the bidding process on any Request for Proposal developed or prepared by or with assistance of Contractor's services rendered pursuant to this Agreement, either as a prime contractor or subcontractor, or as a contractor to any other prime contractor or subcontractor. Any such involvement by Contractor shall result in the rejection by County of the bid by the prime contractor in question.

66. GRATUITIES

It is improper for any County officer, employee, or agent to solicit consideration, in any form, from Contractor with the implication, suggestion, or statement that Contractor's provision of the consideration may secure more favorable treatment for Contractor in the award of the contract or that Contractor's failure to provide such consideration may negatively affect County's consideration of Contractor's submittal. Contractor shall not offer or give, either directly or through an intermediary, consideration, in any form, to a County officer, employee, or agent for the purpose of securing favorable treatment with respect to the award of the contract.

Contractor shall immediately report any attempt by a County officer, employee, or agent 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. Failure to report such a solicitation may result in Contractor's submittal being eliminated from consideration.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

67. PROHIBITION AGAINST INDUCEMENT AND PERSUASION

67.1. Contractor and County agree that, during the term of this Agreement and for a period of one (1) year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party.

67.2. Notwithstanding the foregoing, County shall be entitled to make offers of employment to employees of Contractor necessary or desirable to perform work described in this Agreement, in the event that: (i) County has the right to terminate this Agreement pursuant to Paragraph 45 (Termination for Insolvency), (ii) this Agreement is terminated by County due to Contractor's default pursuant to Paragraph 46 (Termination for Default), (iii) Contractor and County have followed the dispute resolution procedure set forth in Paragraph 53 (Dispute Resolution Procedure), and have otherwise exhausted other administrative remedies, if any, as determined by County, or (iv) Contractor either announces the withdrawal of support of, or otherwise no longer provides services County deems essential to, the ongoing support of the System.

67.3. The prohibition in this Paragraph 67 shall not apply to any hiring action initiated through a public announcement.

68. LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS AND CERTIFICATES

Contractor shall obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations and certificates required by all Federal, State, and local laws, ordinances, rules, regulations, guidelines and directives, which are applicable to Contractor's services under this Agreement. Contractor 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 of this Agreement all licenses, permits, registrations, accreditations and certificates which are applicable to their performance hereunder. Upon request by County, Contractor shall provide to DPW a copy of any such license, permit, registration, accreditation and certificate required by all applicable Federal, State, and local laws, ordinances, rules, regulations, guidelines and directives.

69. NO THIRD PARTY BENEFICIARIES

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

70. CONTRACTOR PERFORMANCE DURING CIVIL UNREST AND DISASTER

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

71. CONTRACTOR CERTIFICATION OF PRINCIPAL OWNER INFORMATION

Within thirty (30) days of any renewal or term extension amendment to this Agreement of at least one year, Contractor shall submit to County's Child Support Services Department (the "CSSD") a completed Principal Owner Information form (the "POI form"), incorporated herein by reference, along with certifications in accordance with the provisions of Section 2.200.060 of the Los Angeles County Code, that:

71.1. The POI form has been appropriately completed and provided to the CSSD with respect to Contractor's principal owners;

71.2. Contractor has fully complied with all applicable state and federal reporting requirements relating to employment reporting for its employees; and

71.3. Contractor has fully complied with all lawfully served wage and earnings assignment orders and notices of assignment and will continue to maintain compliance.

72. AUTHORIZATION WARRANTY

Contractor represents and warrants that the person executing this Agreement or any Amendment thereto pursuant to Paragraph 7 (Change Orders and Amendments) for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition and obligation of this Agreement, and that all requirements of Contractor have been fulfilled to provide such actual authority.

73. MINIMUM AGE, LANGUAGE SKILLS AND LEGAL STATUS OF CONTRACTOR PERSONNEL

Contractor cannot assign employees under the age of eighteen (18) to perform work under this Agreement. All of Contractor's employees working at County facilities must be able to communicate in English. Contractor's employees must be United States citizens or legally present and permitted to work in the United States.

74. ARM'S LENGTH NEGOTIATIONS

This Agreement is the product of arm's length negotiations between Contractor and County. Consequently, each party has had the opportunity to receive advice from counsel of its own choosing. This Agreement is to be interpreted fairly as between the parties and not strictly construed as against either party.

75. NON-EXCLUSIVITY

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

76. ACCESS TO COUNTY FACILITIES

Contractor, its employees and agents, will be granted access to County facilities, subject to Contractor's prior notification to County's Project Director, or County's Project Manager, for the purpose of executing Contractor's obligations hereunder, including for the provision of Maintenance Services. 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's Project Director, which approval shall not be unreasonably withheld. Contractor shall have no tenancy, or any other property or other rights, in County facilities. While present at County facilities, Contractor's personnel shall be accompanied by County personnel at all times, unless this requirement is waived in writing prior to such event by County's Project Director, or County's Project Manager.

77. COUNTY FACILITY OFFICE SPACE

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

78. SYSTEM USE

Following installation by Contractor and prior to System Acceptance by County, County shall have the right to use, in a Production Use mode, any completed portion of the System, without any additional cost to County where County determines that it is necessary for County operations. Such Production Use shall not restrict Contractor's performance under this Agreement and shall not be deemed System Acceptance.

79. PHYSICAL ALTERATIONS

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

80. CONTRACTOR'S OFFICES

Contractor's business offices are located at 626 Wilshire Boulevard, Suite 818, Los Angeles, CA 90017-2938. Contractor shall notify in writing Department of Public Works, P. O. Box 1460, Alhambra, CA 91802-1460, Attention: Ms. Jane White, of any change in its business address at least ten (10) calendar days prior to the effective date thereof.

81. STAFF PERFORMANCE WHILE UNDER THE INFLUENCE

Contractor shall use reasonable efforts to ensure that no employee of Contractor shall perform services hereunder while under the influence of any alcoholic beverage, medication, narcotic or other substance, which might impair his/her physical or mental performance.

82. SAFELY SURRENDERED BABY LAW

82.1. Notice To Employees Regarding The Safely Surrendered Baby Law

Contractor 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, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is available on the Internet at www.babysafela.org for printing purposes.

82.2. Contractor's Acknowledgment Of County's Commitment To The Safely Surrendered Baby Law

Contractor acknowledges that County places a high priority on the implementation of the Safely Surrendered Baby Law. Contractor understands that it is County's policy to encourage all County Contractors to voluntarily post County's "Safely Surrendered Baby Law" poster in a prominent position at Contractor's place of business. Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. County's Department of Children and Family Services will supply Contractor with the poster to be used.

83. RESOLICITATION OF BIDS, PROPOSALS, OR INFORMATION

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

83.2. Contractor acknowledges that County, in its discretion, may enter into a contract for the future provision of goods and services, including goods and services related to the System, based upon the bids, information, or proposals received, with a provider or providers other than Contractor. Further, Contractor 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 Contractor.

84. TIME IS OF THE ESSENCE

Time is of the essence of this Agreement.

85. ASSIGNMENT BY COUNTY

This Agreement may be assigned in whole or in part by County, without the further consent of Contractor, to another Public Agency which agrees in writing to perform County's obligations under this Agreement.

86. 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.

87. SURVIVING PROVISIONS

The provisions of the following Paragraphs shall survive the expiration or termination of this Agreement for any reason:

5.4 Unapproved Work

9.6 County's Right to Withhold Payment

9.8 No Payment For Services Provided Following Expiration/Termination of Agreement

12. Indemnification, Insurance and Standby Letter of Credit

15. License Terms

16. Proprietary Considerations

21. Intellectual Property Indemnification

22. Records and Audits

26. Disclosure of Information

27. Confidentiality

28. Warranty

29. System Warranty

35. Compliance with Applicable Laws

36. Fair Labor Standards Act

40. Waiver

41. Governing Law, Jurisdiction and Venue

42. Validity and Severability

44. Termination for Improper Consideration

45. Termination for Insolvency

46. Termination for Default

47. Termination for Convenience; Suspension

53. Dispute Resolution Procedure

57. County Audit Settlements

64. Contractor Responsibility and Debarment

69. No Third Party Beneficiaries

72. Authorization Warranty

78. System Use

84. Time Is of the Essence

87. Surviving Provisions

* * *

AGREEMENT
BETWEEN COUNTY OF LOS ANGELES
AND
TRANSCORE ITS, INC.

IN WITNESS WHEREOF, the County has, by order of its Board of Supervisors, caused this Agreement to be subscribed by the Acting Director of the Department of Public Works, and Contractor has caused this Agreement to be subscribed in its behalf by its duly authorized officer the day, month and year first above written.

COUNTY OF LOS ANGELES

By _____
Acting Director
Department of Public Works

CONTRACTOR

By _____
Signature

By Michael Tove
Print Name

Title: Director

TransCore ITS, Inc.
INCORPORATED
JANUARY 21, 1994
DELAWARE

APPROVED AS TO FORM:
RAYMOND G. FORTNER, JR.
County Counsel

By _____
Jose Silva
Principal Deputy County Counsel

LA1 521998

DEPARTMENT OF PUBLIC WORKS AGREEMENT

Table of Contents

1. APPLICABLE DOCUMENTS 4
   1.1. Agreement 4
   1.2. Consolidation of 1999 Agreement 4
   1.3. Interpretation 4
   1.4. Construction 5

2. DEFINITIONS 5

3. TERM 14

4. MAXIMUM CONTRACT SUM 14
   4.1. General 14
   4.2. Maximum Contract Sum 14
   4.3. Project Management Services 15
   4.4. Taxes 16
   4.5. County's Obligation for Future Fiscal Years 16
   4.6. Hourly Labor Rates: Cost of Living Adjustments 16

5. WORK 17
   5.1. General 17
   5.2. Notice To Proceed; Task Order. 17
   5.3. County Approval of Work 18
   5.4. Unapproved Work 19

6. SYSTEM ACCEPTANCE 20
   6.1. System Acceptance 20
   6.2. Final System Acceptance 20

7. CHANGE ORDERS AND AMENDMENTS 20

8. PRODUCTION USE OF THE SYSTEM 24

9. INVOICES AND PAYMENTS 24
   9.1. General 24
   9.2. Invoice Detail 24
   9.3. Holdbacks 26
   9.4. Payments 26
   9.5. Invoice Discrepancy Report 27
   9.6. County's Right to Withhold Payment 27
   9.7. Credits to County 27
   9.8. No Payment For Services Provided Following Expiration/Termination of Agreement 27

Table of Contents (cont.)

10. DEFICIENCIES 28
    10.1. Deficiencies 28
    10.2. Corrective Measures 28
    10.3. Approval 28

11. MAINTENANCE, SUPPORT AND ADDITIONAL SERVICES 28
    11.1. Maintenance Services 28
    11.2. Correction of Deficiencies 29
    11.3. Updates 29
    11.4. Modifications to Updates 29
    11.5. System Hardware 29
    11.6. Additional Services 29

12. INDEMNIFICATION, INSURANCE AND STANDBY LETTER OF CREDIT 30
    12.1. Indemnification 30
    12.2. General Insurance Requirements 31
    12.3. Insurance Coverage Requirements 32
    12.4. Standby Letter of Credit 33
    12.5. Failure to Procure and Maintain Insurance or Standby Letter of Credit 35

13. ADMINISTRATION OF AGREEMENT - COUNTY 35
    13.1. County's Project Director 35
    13.2. County's Project Manager 36
    13.3. County Personnel 37

14. ADMINISTRATION OF AGREEMENT - CONTRACTOR 37
    14.1. Contractor's Project Manager 37
    14.2. Approval of Contractor's Staff 37
    14.3. Reports by Contractor 38

15. LICENSE TERMS 39
    15.1. Ownership 39
    15.2. License 39
    15.3. Fully-Paid Software License 40

16. PROPRIETARY CONSIDERATIONS 40
    16.1. Physical Materials; County Materials 40
    16.2. Transfer to County 41
    16.3. Copyright Notices 41
    16.4. Contractor's Obligations 41
    16.5. Proprietary and Confidential 42
    16.6. County's Rights and Obligations 42
    16.7. No Obligation by County 42

17. SOURCE CODE RETENTION 43
    17.1. System Software Source Code Self-Escrow 43

18. NEW TECHNOLOGY 45

Table of Contents (cont.)

19. THIRD PARTY SOFTWARE 46

20. SYSTEM HARDWARE; COMPATIBILITY 46

21. INTELLECTUAL PROPERTY INDEMNIFICATION 47

22. RECORDS AND AUDITS 48

23. NOTICES 49

24. COUNTY'S RESPONSIBILITY 50

25. RESTRICTIONS ON LOBBYING 50

26. DISCLOSURE OF INFORMATION 50

27. CONFIDENTIALITY 51

28. WARRANTY 52
    - 28.1. General Warranties 52
    - 28.2. Correction of Deficiencies 52
    - 28.3. Further Warranties 52
    - 28.4. Breach of Warranty Obligations 54
    - 28.5. Disclaimer of Other Warranties 54

29. SYSTEM WARRANTY 54

30. WARRANTY AGAINST CONTINGENT FEES 55

31. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION 55

32. CONTINUOUS PRODUCT SUPPORT 55

33. INDEPENDENT CONTRACTOR STATUS 56

34. SUBCONTRACTING 57

35. COMPLIANCE WITH APPLICABLE LAWS 59

36. FAIR LABOR STANDARDS ACT 60

37. ANTI-DISCRIMINATION AND COMPLIANCE WITH CIVIL RIGHTS LAWS 60

38. EMPLOYMENT ELIGIBILITY VERIFICATION 61

39. REDUCTION OF SOLID WASTE 62

40. WAIVER 62

Table of Contents (cont.)

41. GOVERNING LAW, JURISDICTION AND VENUE 62

42. VALIDITY AND SEVERABILITY 63
    42.1. Validity 63
    42.2. Severability 63

43. COUNTY RIGHTS 63

44. TERMINATION FOR IMPROPER CONSIDERATION 63

45. TERMINATION FOR INSOLVENCY 64

46. TERMINATION FOR DEFAULT 64

47. TERMINATION FOR CONVENIENCE; SUSPENSION 67

48. Force Majeure 69

49. NOTICE OF DELAY 69

50. CONFLICT OF INTEREST 70

51. DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS 70

52. EMPLOYMENT OF TARGETED FOR LAYOFF OR LAID-OFF COUNTY EMPLOYEES 71

53. DISPUTE RESOLUTION PROCEDURE 71
    53.1. General 71
    53.2. Continued Work 71
    53.3. Dispute Resolution 72
    53.4. Documentation of Dispute Resolution 72
    53.5. Not Applicable to County's Right to Terminate 72

54. CONSIDERATION OF GREATER AVENUES FOR INDEPENDENCE OR GENERAL RELIEF OPPORTUNITY FOR WORK PROGRAM PARTICIPANTS FOR EMPLOYMENT 73

55. COUNTY'S RIGHT TO RENEGOTIATE 73

56. MOST FAVORED PUBLIC ENTITY 73

57. COUNTY AUDIT SETTLEMENTS 73

58. CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM 74

59. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM 74

Table of Contents (cont.)

60. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT 74

61. COUNTY'S QUALITY ASSURANCE PLAN 74

62. CONTRACTOR EMPLOYEE JURY SERVICE PROGRAM 75
    62.1. Jury Service Program 75
    62.2. Written Employee Jury Service Policy 75

63. VENDOR REGISTRATION WITH THE COUNTY OF LOS ANGELES 76

64. CONTRACTOR RESPONSIBILITY AND DEBARMENT 76

65. PROHIBITION FROM INVOLVEMENT IN BIDDING PROCESS 77

66. GRATUITIES 77

67. PROHIBITION AGAINST INDUCEMENT AND PERSUASION 77

68. LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS AND CERTIFICATES 78

69. NO THIRD PARTY BENEFICIARIES 78

70. CONTRACTOR PERFORMANCE DURING CIVIL UNREST AND DISASTER 78

71. CONTRACTOR CERTIFICATION OF PRINCIPAL OWNER INFORMATION 79

72. AUTHORIZATION WARRANTY 79

73. MINIMUM AGE, LANGUAGE SKILLS AND LEGAL STATUS OF CONTRACTOR PERSONNEL 79

74. ARM'S LENGTH NEGOTIATIONS 79

75. NON-EXCLUSIVITY 79

76. ACCESS TO COUNTY FACILITIES 80

77. COUNTY FACILITY OFFICE SPACE 80

78. SYSTEM USE 80

79. PHYSICAL ALTERATIONS 80

80. CONTRACTOR'S OFFICES 80

81. STAFF PERFORMANCE WHILE UNDER THE INFLUENCE 81

Table of Contents (cont.)

82. SAFELY SURRENDERED BABY LAW 81
82.1. Notice To Employees Regarding The Safely Surrendered Baby Law 81
82.2. Contractor's Acknowledgment Of County's Commitment To The Safely Surrendered Baby Law 81

83. RESOLICITATION OF BIDS, PROPOSALS, OR INFORMATION 81

84. TIME IS OF THE ESSENCE 81

85. ASSIGNMENT BY COUNTY 82

86. CAPTIONS AND PARAGRAPH HEADINGS 82

87. SURVIVING PROVISIONS 82

EXHIBITS:

EXHIBIT A – STATEMENT OF WORK
EXHIBIT B – PRICE
EXHIBIT C – MAINTENANCE AND SUPPORT
EXHIBIT D – TASK/DELIVERABLE ACCEPTANCE CERTIFICATE
EXHIBIT E – CONTRACTOR EMPLOYEE ACKNOWLEDGMENT, CONFIDENTIALITY AND COPYRIGHT ASSIGNMENT AGREEMENT
EXHIBIT F – CONTRACTOR'S EEO CERTIFICATION
EXHIBIT G – INVOICE DISCREPANCY REPORT
EXHIBIT H – STANDBY LETTER OF CREDIT

COUNTYWIDE
INFORMATION EXCHANGE NETWORK

EXHIBIT A – STATEMENT of WORK

Proposed Statement of Work & Tasks

Prepared for:
Los Angeles County
Department of Public Works

Prepared by:

TRANSCORE
626 Wilshire Boulevard
Suite 818
Los Angeles, CA 90017

May 9, 2005

Countywide Information Exchange Network (IEN)
Proposed Statement of Work & Tasks

Group	#	Proposed Tasks	NTE $$	Task Duration
	1.	Project Management & System Integration Support	$360,000	36 mos.
	2.	LACO DPW Countywide Traffic Control System Command/Data Interface (TCS CDI)	$95,000	4-6 mos.
A	3.	Multiple IEN Corridor Servers (MCS)	$950,000	15-18 mos.
	4.	Adding CCTV as an IEN Object (Conceptual Design ONLY)	$125,000	4-6 mos.
	5.	Countywide IEN Communications/Network Analysis	$225,000	6-9 mos.
	6.	IEN Software (S/W) Enhancements (Controlling vs. Owning Agency Indications)	$175,000	6-8 mos.
B	7.	Receive/Translate LADOT-Supported/Defined XML Data into IEN CORBA Data	$290,000	6-9 mos.
	8.	XML Interface to the IEN	$900,000	9-12 mos.
	9.	IEN Thin Client Applications	$75,000	3-4 mos.
	10.	Add MTA Bus Signal Priority/Transit Priority System (BSP/TPS) Information/Graphics to the IEN	$250,000	6-9 mos.
	11.	IEN Graphics Conversion & Map Database Migration (Etak-to ESRI-ARC/Info)	$225,000	6-9 mos.
	12.	IEN Configuration Management Plan	$100,000	9 mos.
	13.	IEN Internet Web-Site & IEN "On-Line Tutorial"	$125,000	3-6 mos.
	14.	MICE Enhancements (Conceptual Design ONLY)	$160,000	6-9 mos.
		TOTAL	$4,055,000	

Item	Proposed Tasks	NTE $$	Task Duration

1.	**Project Management & System Integration Support**
	
	This Task includes performance of the activities necessary to provide Project Management and System Integration Support for the IEN Master Agreement.
	
	Project Management activities for this Task include the following at a minimum:
	• Preparation of monthly progress reports
	• Liaison with County staff re: the direction & status of the IEN Program
	• Clarifying contractual, scope, schedule, & financial issues
	• Developing presentation materials, brochures, newsletters, etc.
	• Attendance, participation, & facilitation of IEN Program meetings
	• Development of ad-hoc correspondence & technical memos
	
	System Integration Support activities for this Task include the following at a minimum:
	• Reviewing and/or providing documentation regarding IEN integration
	• Reviewing, assistance in developing, and testing software (S/W) code:
	  • Interfacing/integrating Local City Control Sites (LCCSs) to the IEN
	  • Specific command/data interfaces (CDIs) between unique Traffic Control Systems (TCSs) and the IEN
	• Discussions with other government Agencies and/or their Consultants/Vendors regarding IEN integration
	• Discussions with LA County, MTA, and/or their Consultants/Vendors regarding the distribution, marketing, licensing, and legal impacts associated with designing, developing, installing, integrating, and/or testing that Agency's connection to the Countywide IEN
	
	<u>DELIVERABLES:</u>
	• Monthly progress reports
	• Presentation materials, brochures, newsletters, etc.
	• Ad-hoc correspondence & technical memos
	• System integration reviews, documentation, & support
		$360,000	**36 mos.**

Item	Proposed Tasks	NTE$$	Task Duration
2.	**LACO DPW Countywide Traffic Control System Command/Data Interface (TCS CDI)** Within this Task, TransCore will develop the Command/Data Interface (CDI) application software to interface the Countywide IEN and the County's Traffic Control System (TCS). This CDI will facilitate 2-way data exchanges between the Countywide IEN and the Countywide TCS. As part of this Task, TransCore will develop and submit the "CDI Design Document" as tailored to the Countywide TCS. The CDI Design Document will include the software and hardware specifications, protocol specification, requirements, detailed implementation plan, and schedule. TransCore will set-up a development environment and use the CDI Design Document to develop the CDI application software. Prior to the field installation, this software will be tested in a test environment. Then, TransCore will install, integrate, and test the CDI application software on the appropriate computer platform at the LA County TMC. DELIVERABLES: • CDI Design Document • Develop Hardware (H/W) List • CDI Application Software • Acceptance Test Plan • System Installation & Integration (H/W, S/W, & Networking) • Acceptance Tests • Documentation • System Support	**$95,000**	**4-6 mos.**

Item	Proposed Tasks	NTE $$	Task Duration
3.	**Multiple IEN Corridor Servers (MCS)** This Task enhances the IEN system to support coordination between multiple corridor servers. The software (S/W) implemented for the San Gabriel Valley Pilot Project was designed to support a single *corridor*, with a single Corridor Server. This Task will enhance and extend the existing IEN S/W to provide Countywide monitoring and control of traffic devices, incident management, and other IEN features. To provide these features and to reinforce existing components as necessary to handle the larger scale of the IEN system, this Task will install additional hardware components (as provided by the County) and necessary S/W enhancements. The MCS Task does not include extensive enhancements to MICE (Motorist Information Communications Exchange) but only the re-configuring modifications necessary for MICE to work in the MCS/Countywide environment. Please note that there will quite likely be some economies of scale in implementing MICE between this Task and Task #16 [MICE Enhancements (Conceptual Design ONLY)]. This Task's functionality will address the extensibility of MICE (i.e., the application's ability to meet the performance and capacity needs of the fully deployed Countywide IEN). DELIVERABLES: • Regional Conceptual Design (i.e., Server, Database Replication, System Configuration Manager, Security, System Log Viewer, Real-Time Data Distribution, Device Control, Scenario Management, Map Interface, Detailed Intersection View Interface, Component Management, Incident Tracking, Alarm Management, Time-Base Coordination, E-mail) • Communications & Network Needs • Requirements Definition • Acceptance Test Plan • Detailed Design Document (DDD) • Hardware & Software Specifications • System Development & Unit Testing • System Installation & Integration (H/W, S/W, & Networking) • Acceptance Tests • Documentation • Training • System Support	**$950,000** $800,000 $150,000	**15-18 mos.**

Item	Proposed Tasks	NTE $$	Task Duration
4.	**Adding Closed Circuit Television (CCTV) as an IEN Object (Conceptual Design ONLY)** The County wants to add video capabilities to the IEN workstation (W/S) and then make the video readily available throughout the Countywide IEN network. This extension to the IEN will require considerable analysis. Therefore, this Task does NOT include implementation activities but rather the following IEN CCTV conceptual design sub-tasks (as per the applicable Schedule of Work): develop concept-of-operations, define system requirements, analyze/recommend the physical connectivity for video collection and distribution, review/design the means to obtain the surface street video (using a variety of media), and ensure that the addition of video does not significantly affect/degrade the performance of the remaining IEN applications. This Task should be performed in parallel with Task #3 (Multiple IEN Corridor Servers) and serve as strategic input into Task #5 (Countywide IEN Communications/Network Analysis). Please note that additional costs will be necessary to implement/integrate CCTV onto the IEN (e.g., procurement, service delivery, installation, integration, testing, etc.). These costs are not included herein because they are unknown and will be entirely based on the findings/results of this Task. DELIVERABLES: • Concept-of-Operations & Operational Requirements • Requirements Workshop • Requirements Definition (Technical & Functional) • Physical Architecture Report (S/W, H/W, & Communications Options/Recommendations) • Conceptual Design Review Workshop	**$125,000**	**4-6 mos.**

Item	Proposed Tasks	NTE $$	Task Duration
5.	**Countywide IEN Communications/Network Analysis** This Task will perform a detailed analysis/investigation of the communications and network capacity needed to support the IEN as it "rolls-out" Countywide. The Task's focus will be at the Corridor-wide and Countywide levels (i.e., center-to-center communications; NOT roadside-to-center connections) specifically supporting the following communications: • IEN Regional Server to/from IEN Corridor Servers (housed @ Sub-Regional TMCs) • IEN Corridor Servers (housed @ Sub-Regional TMCs) to/from other IEN Corridor Servers (housed @ other Sub-Regional TMCs) Overall, this Task will identify the communications type, capacity, locations, routing, cost, implementation schedule, etc necessary to support the Countywide IEN. This Task should be performed after Task #4 [Adding CCTV as an IEN Object (Conceptual Design)]. Please note that additional costs will be necessary to implement the Countywide IEN communications/network portion of this Task (e.g., procurement, service delivery, installation, integration, testing, etc.). These costs are not included herein because they are unknown and will be entirely based on the findings/results of this Task. Furthermore, the actual Countywide IEN communications/network implementation will occur through the various Sub-Regional Traffic Forum projects currently on-going. DELIVERABLES: • Telecommunications Network Assessment & Requirements (Current, Short-Term, & Long-Term) • Telecommunications Alternatives Analysis, Specifications, & Recommendations (maximum of 3 options) • Preliminary Telecommunications Network Design (35% PS&E) • Final Telecommunications Design (Optional) • Telecommunications Network Deployment Plan • Procurement Support • O&M Plan	**$225,000**	**6-9 mos.**

Item	Proposed Tasks	NTE $$	Task Duration
6.	**IEN Software (S/W) Enhancements (Controlling vs. Owning Agency Indications)** This Task presents a set of S/W enhancements to the IEN that will provide enhanced control feedback and accountability for operators of the IEN. As the system expands Countywide, larger numbers of operators are capable of affecting the operation of devices connected to the IEN over a larger geographic area. There will be a greater need for operators and administrators to be able to quickly determine which devices are under the control of other Agencies and to access more detailed information about the local traffic control systems' handling of commands received from remote sites. This task should be performed in parallel with Task #3 (Multiple IEN Corridor Servers) Specific IEN S/W enhancements include: • Provide easily accessible visual indications that identify which traffic control system (TCS) devices are under "remote control" – that is, those devices that are under the control of some Agency other than the local Agency that is generally responsible for the O&M of the device • For devices under remote control, identify the Agency associated with the operator who initiated such control • If a remote control command was issued, but accepted by the TCS or the device, provide an indication to the operator • Log detailed information to the system log when remote control commands are initiated, what Agency initiated them, when they are actually implemented at the device level, and when devices are returned to local control Specific IEN components that will be enhanced: • ATMS Map & ATMS Explorer Icons • Dynamic Intersection Legend • Manual Command Window • Scenario Viewer & Scenario Management System • TCS Command/Data Interface (CDI) • Database Schema & System Configuration Manager • Command Message Service <u>DELIVERABLES:</u> • S/W Requirements Document • S/W Design Document • Acceptance Test Plan • S/W Development, Unit Testing, & Integration Testing • S/W Installation • Acceptance Tests • Documentation (Manuals & updated IEN DDD) • Training	**$175,000**	**6-8 mos.**

Item	Proposed Tasks	NTE $$	Task Duration

7.	**Receive/Translate LADOT-Supported/Defined XML Data into IEN CORBA Data**
	
	In this Task, the IEN will be capable of receiving Los Angeles Department of Transportation (LADOT)-supported/defined XML data, translating said XML data into IEN CORBA data, and populating said data throughout the IEN. The goal of this IEN XML interface is to receive/translate traffic congestion and incident information from other Agency systems in Southern California that use LADOT-supported/defined XML data, and display that information as "links" and "MICE incidents" (Motorist Interchange Communications Environment) on IEN workstations.
	
	TransCore Responsibilities:
	• Develop IEN software that receives LADOT-supported/defined XML data
	  • Support LADOT traffic congestion and signal data
	  • Support LADOT events [Planned Events (Existing) & Active Incidents (Planned)]
	  • Support additional LA County data needs (i.e., green returns, signal mode/status, programmed splits)
	• Translate said XML data into IEN CORBA data
	• Populate said data throughout the IEN
	• End-product of SOW also includes the display of LADOT data on the IEN
	
	LADOT Responsibilities:
	• Provide the level-of-support as identified within the "Assumptions"
	
	Other Agency Systems in Southern California:
	• Provide LADOT-supported/defined XML data to the IEN
	
	LA County Responsibilities:
	• Provide the level-of-support as identified within the "Assumptions"
	
	DELIVERABLES:
	• Requirements Definition
	• Detailed Design Document (DDD)
	• S/W Development of a 1-way XML-based Interface (per above responsibilities)
	• System Installation, System Integration, & Acceptance Tests
	• Documentation
	• Training
	
	NOTE:
	Task scope, schedule, & costs depicted herein are dependent on the use of following industry standards:
	  • XML Version 1.1 - based on the recommendation/information found on the World Wide Web Consortium (W3C) web-site dated April 15th, 2004 (<http://www.w3.org/TR/2004/REC-xml11-20040204/>).
	  • NTCIP 2306 - based on the recommendation/information found on the NTCIP web-site dated May 5th, 2005 (<http://www.ntcip.org/library/documents/>).
	  • Traffic Management Data Dictionary (TMDD) Version 2.1 - based on the recommendation/information forwarded by ITE & AASHTO where this standard has just been approved by the Steering Committee (April '05).
		$290,000	**6-9 mos.**

Item	Proposed Tasks	NTE $$	Task Duration
	• J2354 & IEEE 1512 family of standards - based on the recommendation/information forwarded by SAE & IEEE (April '05). Please note that any/all of these standards are subject to modification and/or formal approval within the ITS industry. If the industry standards change, TransCore reserves the right to modify this Task's scope, schedule, and cost.		

Item	Proposed Tasks	NTE $$	Task Duration
8.	**XML Interface to the IEN** This Task will develop an XML interface to the IEN that is capable of a 2-way data/information exchange with other Agency systems in Southern California. INBOUND In the "inbound" part of this Task, the IEN will be capable of receiving a full set of IEN-supported/defined XML data, translating said XML data into IEN CORBA data, and populating said data throughout the IEN. The goal of the inbound part of the IEN XML interface is to receive/translate traffic congestion and incident information from other Agency systems in Southern California, and display that information as "links" and "MICE incidents" (Motorist Interchange Communications Environment) on IEN workstations. OUTBOUND In the "outbound" part of this Task, the IEN will be capable of translating its full set of CORBA data into XML data and publishing said IEN-supported/defined XML data to other Agency systems in Southern California. The goal of this IEN XML interface is to translate/publish the IEN's traffic congestion "links" and "MICE incidents" (Motorist Interchange Communications Environment) data/information to other Agency systems in Southern California. TransCore Responsibilities: • Define/provide the WSDLs (Web Services Definition Language) for the full set IEN-supported/defined XML data • Develop IEN software that receives IEN-supported/defined XML data • Develop IEN software that publishes said IEN XML data to other Agency systems in Southern California • Translate received XML data into IEN CORBA data • Populate said data throughout the IEN • End-product of SOW also includes the display of LADOT data on the IEN Other Agency Systems in Southern California: • Provide IEN-supported/defined XML data to the IEN • Develop software that receives/translates IEN-supported/defined XML data LA County Responsibilities: • Provide the level-of-support as identified within the "Assumptions" DELIVERABLES: • Requirements Definition • Detailed Design Document (DDD) • Physical Connection/Communications Design • S/W Development of a 2-way XML-based Interface (per above responsibilities) • System Installation, System Integration, & Acceptance Tests • Documentation & Training NOTE: Task scope, schedule, & costs depicted herein are dependent on the use of following industry standards:	**$900,000**	**9-12 mos.**

Item	Proposed Tasks	NTE $$	Task Duration
	• XML Version 1.1 - based on the recommendation/information found on the World Wide Web Consortium (W3C) web-site dated April 15th, 2004 (<http://www.w3.org/TR/2004/REC-xml11-20040204/>). • NTCIP 2306 - based on the recommendation/information found on the NTCIP web-site dated May 5th, 2005 (<http://www.ntcip.org/library/documents/>). • Traffic Management Data Dictionary (TMDD) Version 2.1 - based on the recommendation/information forwarded by ITE & AASHTO where this standard has just been approved by the Steering Committee (April '05). • J2354 & IEEE 1512 family of standards - based on the recommendation/information forwarded by SAE & IEEE (April '05). Please note that any/all of these standards are subject to modification and/or formal approval within the ITS industry. If the industry standards change, TransCore reserves the right to modify this Task's scope, schedule, and cost.		

Item	Proposed Tasks	NTE $$	Task Duration
9.	**IEN Thin Client Applications - Analysis** This Task describes the efforts required to use "thin-client" web-browser-based applications within the Countywide IEN's user interfaces. Converting to thin clients will alter the shape, look, feel, etc. of the IEN and that requires that the proper analysis be performed first. Activities will include the following preliminary analysis tasks: identifying IEN applications suitable for thin clients, feasibility analysis, impact analysis (IEN & TransCore software products), developing high-level thin client system requirements, recommended thin client solutions, and proposed system architecture for the thin client solution. Please note that additional costs will be necessary to implement the recommended thin client solution and system architecture identified within this task (e.g., detailed system requirements development, software development, service delivery, installation, integration, testing, etc.). These costs are not included herein because they are unknown and will be entirely based on the findings of this task. DELIVERABLES: • To be developed by County & TransCore	**$75,000**	**3-4 mos.**

Item	Proposed Tasks	NTE $$	Task Duration
10.	**Add MTA Bus Signal Priority/Transit Priority System (BSP/TPS) Information/Graphics to the IEN** This Task will add Bus Signal Priority (BSP) and Transit Priority System (TPS) data/information and graphics to the IEN. Specific IEN S/W enhancements include: • Develop a CORBA-based CDI to obtain data/information from the MTA's BSP central server • Collect BSP/TPS, signal priority operations, and vehicle location data • Add a new map layer to display bus location(s) & transit routes • Add new map layers and/or screens to show BSP/TPS requests, BSP/TPS operations/indications/request, etc. • Design/develop all of the data fields on the IEN that will receive the BSP/TPS data/information Specific IEN components that will be enhanced and/or developed: • ATMS Map & ATMS Explorer Displays • Intersection Icon Status Legend • Intersection Detail View/Screen • Informational Polyline Annotations • Data Archiving System & System Log • Real-Time Data Subsystem • Database Schema & System Configuration Manager • TCS Command/Data Interface (CDI) *[Please note that activities to allow the IEN to receive/display BSP/TPS information from additional sources (non-MTA BSP central server) are outside the scope of this Task. For those transit routes that are serviced by a central TCS, the provision of BSP/TPS data to the IEN will be through the TCS CDI (as developed within separate Tasks and cost estimates not included within this SOW)].* <u>DELIVERABLES:</u> • Communications & Network Needs • S/W Requirements Document • Acceptance Test Plan • Software Design Document • System Development & Unit Testing • System Installation & Integration • Acceptance Tests • Documentation • Training	**$250,000**	**6-9 mos.**

Item	Proposed Tasks	NTE $$	Task Duration
11.	**IEN Graphics Conversion & Map Database Migration (Etak-to ESRI-ARC/Info)** This Task will replace the geographic libraries and databases that currently support the IEN. This update has become necessary since the third party vendor (Etak Corporation) that supplies the current set of geographic data is phasing out support for the product at the end of 2004. Within the IEN, geographical data is used to generate the roadway network in IEN map displays, position map layer icons, and to specify locations for events logged within the incident management subsystem. This Task is also viewed as an opportunity to switch to "shape" files, a more standardized geographic data format, so as to increase compatibility with geographic data used by external systems that share data with the IEN. Before using such "shape" files to add incidents to the IEN's graphical displays using geo-coding, TransCore will need to perform the following activities: • Ensure that County-supplied data are indeed "shape" files • Perform an evaluation of the County-supplied data to ensure that it contains the necessary information • Perform an evaluation of the County-supplied data to determine if it contains more information than necessary (i.e., containing more data/information often means issues re: slow performance) • Work with the County to establish the "best" method in which to use County-supplied data & determine realistic performance criteria for the graphical displays DELIVERABLES: • To be developed by County & TransCore	**$225,000**	**6-9 mos.**

Item	Proposed Tasks	NTE $$	Task Duration

12.	**IEN Configuration Management (CM) Plan**
	
	The County envisions the IEN as an evolving system that will grow over time to incorporate more Cities/Agencies and incorporate additional functionality. In order to help sustain the IEN, to control changes to the IEN, and to provide standardized components, the County has decided to institute policies and procedures to manage the configuration of the IEN's documents, H/W, S/W, and communications/network products. This Task will prepare an IEN Configuration Management Plan that meets the needs of the County and allows the County to control and manage the evolution of the IEN in order to efficiently and effectively meet the traffic management objectives of the involved Agencies.
	
	Typical components that will be included in the CM Plan:
	• Requirements, design, and code for S/W elements that can be-re-used (i.e., CDI)
	• Requirements, design, and code for S/W elements that implement common communications-related functions
	• Requirements and design for the communications protocols (i.e., IDLs for transportation objects and the methods for object exchange)
	• Requirements for functions that are used cooperatively across various systems (i.e., scenario concept for controlling TCS timing plans)
	
	<u>DELIVERABLES:</u>
	• User Needs Definition
	  • Determine what elements of the IEN need to be placed under some level of configuration control (e.g., documents, requirements, designs, S/W code, H/W components, communications/network, etc.)
	  • Establish the IEN "baseline"
	  • Determine who needs to be involved & at what level in the approval of changes to the baseline
	  • Establish the review, approval, & disapproval process
	• CM Plan
	  • Project definition & scope
	  • Baseline establishment process for each IEN system component (i.e., functional, design, and product)
	  • Change management process
	  • Status accounting
	  • Verification & audit
	  • Item repository, control processes, and repository security
	  • CM improvements
	  • Organization, roles/responsibilities, & resources
		$100,000	**9 mos.**

Item	Proposed Tasks	NTE $$	Task Duration

13.	**IEN Internet Web-Site & IEN "On-Line Tutorial"**
	
	This Task will develop an IEN Project Web-Site that provides information to Cities/Agencies that are interested in connecting to the Countywide IEN. The web site will also provide an on-line tutorial of the IEN system in order to provide users a "hands-on" demonstration of the system's features, functionality, and capabilities.
	
	DELIVERABLES:
	• IEN Web-Site
	  • Home page
	  • Project goals
	  • System capabilities
	  • Concept-of-operations
	  • Distribution policies
	  • Connection requirements
	  • Standards compliance
	  • Stakeholders, "news"
	  • System status/updates
	  • Transportation-related links
	  • Series of documents available for download in PDF format
	• On-Line Tutorial
	  • Web-based demonstration of the IEN's features, functionality, & capabilities (i.e., system that has all of the IEN screens, map layers, etc. but that is not connected to the "live" system but rather uses a random number generator and/or data simulator)
	  • On-line "Help" features
		$125,000	**3-6 mos.**

Item	Proposed Tasks	NTE $$	Task Duration
14.	**MICE Enhancements (Conceptual Design ONLY)** Within the original IEN implementation, the use of MICE was always intended as an interim solution. In order to operate within a Countywide network, this enhancement to the IEN will require considerable analysis that evaluates the capabilities of the current incident management application – MICE – along with the potential to develop a "new" incident management system Please note that additional costs will be necessary to implement the MICE enhancements identified within this Task (e.g., procurement, service delivery, installation, integration, testing, etc.). These costs are not included herein because they are unknown and will be entirely based on the findings/results of this Task. DELIVERABLES: • Concept-of-Operations & Operational Requirements • Requirements Workshop • Requirements Definition (Technical & Functional) • Physical Architecture Report (S/W, H/W, & Communications Options/Recommendations) • Conceptual Design Review Workshop • Conceptual Design Document	**$160,000**	**6-9 mos.**

COUNTYWIDE
INFORMATION EXCHANGE NETWORK

EXHIBIT A – STATEMENT OF WORK
ATTACHMENT #1

TransCore Schedule of Work
IEN Project Management & System Integration Support Task

Prepared for:
Los Angeles County
Department of Public Works

Prepared by:

TRANSCORE
626 Wilshire Boulevard
Suite 818
Los Angeles, CA 90017

May 2nd, 2005

Pertinent Contractual Information

1.	Budget	$360,000
2.	Payment Type	Time & Materials (T&M) Billed monthly
3.	Labor Rates	Please see Exhibit B – Price, Attachment # 2

IEN Project Management SOW

1. Project Management activities associated with this SOW for management of the IEN Master Agreement include the following at a minimum:
   - Preparation of monthly progress reports
   - Liaison with County staff regarding the direction & status of the IEN Program
   - Clarifying contractual, scope, schedule, & financial issues
   - Developing presentation materials, brochures, newsletters, etc.
   - Attendance, participation, and facilitation of IEN Program meetings
   - Development of ad-hoc correspondence and technical memos
   - Project Management activities associated with this SOW are also for management of the System Integration Support SOW (identified below)

2. Project Management activities for each Task in Exhibit A – Statement of Work are not covered within this SOW, as they are the responsibility of the individual Task

IEN Consultant & System Integration Support SOW

1. Provide assistance to other government Agencies and/or their Consultants/Vendors at the direction of LA County and/or MTA as it regards the use of software and/or products developed by TransCore, especially the Information Exchange Network (IEN). "Assistance" in this context shall mean the following:
   - Reviewing and/or providing documentation regarding IEN integration
   - Reviewing, assistance in developing, and testing software code for:
     - Interfacing/integrating Local City Control Sites (LCCSs) to the IEN
     - Specific command/data interfaces (CDIs) between unique Traffic Control Systems (TCSs) and the IEN
   - Ensuring that the IEN and/or TCS CDI interface(s) operates/functions in accordance with the IEN Requirements Matrix, IEN CDI Recommendations Document, and/or IEN Acceptance Test Procedures (ATP)
     - Installation, configuration, and customization assistance
     - Reviewing, defining, and troubleshooting communications and/or network issues assistance

- "Assistance" does not include the direct development of plug-ins or interfaces to other systems

2. Discussions with other government Agencies and/or their Consultants/Vendors regarding IEN integration at the direction of LA County and/or MTA. These "discussions" include but are not limited to the following examples:
   - LA County and/or MTA regarding future directions and/or integration possibilities (e.g., XML interface, Transit Priority System, RIITS, etc.)
   - LADOT regarding ATSAC, ATCS, XML interface, etc.
   - Caltrans regarding the District 7 Intertie Sever, RIITS, CT-NET, etc.
   - TCS Vendors (e.g., BiTrans, Econolite, etc.) regarding TCS integration and/or CDIs
   - Cities of Inglewood, Burbank, Glendale, Pasadena, Arcadia, Beverly Hills, West Hollywood, etc. regarding TCS integration and/or CDIs
   - NET (e.g., I-105, RIITS, etc.)
   - Siemens (e.g., Gateway Cities Traffic Forum, I-5/Telegraph Road, I-710, etc.)
   - MMA/Iteris (e.g., Gateway Cities Traffic Forum, I-105, South Bay Traffic Forum, etc.)
   - PB/Farradyne (e.g., South Bay Traffic Forum, etc.)
   - Kimley-Horn (e.g., Countywide TCS CDI, Pomona Valley Traffic Forum, etc.)
   - Others (TBD)

3. Discussions with LA County, MTA, and/or their Consultants/Vendors regarding the distribution, marketing, licensing, and legal impacts associated with designing, developing, installing, integrating, and/or testing that Agency's connection to the LA County's Countywide IEN (for Agencies located within or outside LA County).

4. Activities deemed necessary by LA County and/or MTA to successfully promote the IEN Countywide.

5. Provide end-user support to the County.

6. Provide administrative and integration support [e.g., configuring users and devices in MS Windows, MS Outlook (a.k.a. regular Agency E-mail), and the system software], including the migration of software and data to new servers.

7. Providing on-going telephone support and informal training to County system administrators and operators.

8. Providing on-going telephone support and informal training to Local Agency system administrators and operators.

Exhibit B - Price

Attachment 1

TASK VALUE AND DURATION OF TASKS

The following table presents Contractor's Price and Duration of Tasks for the Information Exchange Network Project Agreement by and between County and Contractor (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. With the exception of Task 1 (Project Management & System Integration Support), Deliverables for each Task will be developed in the Schedule of Work upon issuance of Notice to Proceed, which will also serve as the basis for submitting invoices. The "Amount" scheduled for Task 1 is a "not to exceed without prior approval" 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 (Contractor's Applicable Hourly Rates) to this Exhibit B (Price and Duration of Tasks). All other Tasks will be performed on a firm fixed price (FFP) basis.

Project Costs & Estimated Project Duration per Task

Group[1]	Task No.	Task	Value (Labor & Directs)[3]	Estimated Duration (month)[4]
	1	Project Management & System Integration Support[2]	$360,000	36
	2	LACO DPW Countywide Traffic Control System Command/Data Interface (TCS CDI)	$95,000	6
	3	Multiple IEN Corridor Servers (MCS)	$950,000	18
	4	Adding CCTV as an IEN Object (Conceptual Design ONLY)	$125,000	6
A	5	Countywide IEN Communications/Network	$225,000	9
	6	IEN Software (S/W) Enhancements (Controlling vs. Owning Agency Indications)	$175,000	8
	7	Receive/Translate LADOT-Supported/Defined XML Data into IEN CORBA Data	$290,000	9
	8	XML Interface to the IEN	$900,000	12
	9	IEN Thin Client Applications	$75,000	6
B	10	Add MTA Bus Signal Priority/Transit Priority System (BSP/TPS) Information/Graphics to the IEN	$250,000	9
	11	IEN Graphics Conversion & Map Database Migration (Etak-to-ESRI-ARC/Info)	$225,000	9
	12	IEN Configuration Management Plan	$100,000	9
	13	IEN Internet Web-Site & IEN "On-Line Tutorial"	$125,000	6
	14	MICE Enhancements (Conceptual Design ONLY)	$160,000	9
		TASK SUBTOTAL	**$4,055,000**	
		Maintenance Services with Upgrade Path (3 year estimate)[5]	$425,160	
		Additional Services[2]	$608,250	
		MAXIMUM CONTRACT SUM[6]	**$5,088,410**	

[1] Listed tasks are not in order of execution.

[2] The dollar amounts in these rows assume payment by County of the maximum amount of fees allocated for Project Management & System Integration Support and Additional Services, on a "not to exceed" basis. Additional Services and Project Management related travel are subject to County prior approval.

[3] Each of the listed amounts, except for the Maintenance Service with Upgrade Path, is subject to a 10% holdback, per Paragraph 9.3 of the Agreement.

[4] Actual project schedule will be developed with the Schedule of Work upon issuance of Notice to Proceed.

[5] Contractor will invoice County up to the maximum amount of $11,810 at the start of each Maintenance Service month for Level 1 Maintenance Services, as described in Attachment 3 of this Exhibit B. If County requires Level 2 or Level 3 Maintenance Services, as described in Attachment 3 of this Exhibit B, the increase in the cost of Maintenance Services will be funded using Pool Dollars for Additional Services. County will supplement the Agreement if Level 2 or Level 3 Maintenance Services are required and there are not sufficient Pool Dollars available to use for such services.

[6] This total may be subject to adjustment for any amounts owed to County by Contractor arising under the Agreement.

COUNTYWIDE
INFORMATION EXCHANGE NETWORK

EXHIBIT B – PRICE
ATTACHMENT #2

TransCore T&M Labor Rates
IEN Project Management & System Integration Support

Prepared for:
Los Angeles County
Department of Public Works

Prepared by:

TRANSCORE
626 Wilshire Boulevard
Suite 818
Los Angeles, CA 90017

June 7th, 2005

TransCore Hourly Labor Rates per Staffing Category

1. Please note that the TransCore staff listed below reflects "Actual" and "Representative" staff at this time. Both TransCore and the County fully acknowledge that additional TransCore staff may need to be added to these Labor Categories as approved by County.
2. As of the effective date of the IEN Master Agreement, TransCore staff listed herein (Exhibit B, Attachment 2) are pre-approved by the County to work on the IEN in the roles set forth below.

Labor Category	TransCore Staff (Actual & Representative)	Billing Rate/Hour
Project Manager	Chuck Dankocsik	$135.00
Responsible Officer	Mike Mauritz	$175.00
Chief Engineer	Bob Rausch	$218.00
Senior Systems Engineer I	Vera Jin	$133.00
	David Shackelford	
	Joe Knapka	
Senior Systems Engineer II	Keith Patton	$171.00
	Jeff Mayo	
Systems Engineer I-II	Michael Bayer	$90.00
Systems Engineer III-IV	Jack Schneider	$113.00
Communications Specialist I		$133.00
Communications Specialist II	Anthony Torres	$144.00
Transportation Engineer	Edmond Nartey	$70.00
Senior Transportation Engineer	Travis White	$110.00
Programmer/Analyst I		$83.00
Programmer/Analyst II		$89.00
Administrative Assistant	Sharon Turnbo	$70.00
Graphics/CAD Technician	Jennifer Windrow	$75.00
	Marcy Dorsey	

COUNTYWIDE
INFORMATION EXCHANGE NETWORK

EXHIBIT B – PRICE
ATTACHMENT #3

Maintenance & Support

Prepared for:
Los Angeles County
Department of Public Works

Prepared by:

TRANSCORE
626 Wilshire Boulevard
Suite 818
Los Angeles, CA 90017

April 12th, 2005

Countywide Information Exchange Network (IEN)
Maintenance & Support Services

Level #	System Software Configuration Supported by Contractor	Firm Fixed Price per Month
1.	• Up to five (5) Traffic Control System (TCS) Sites (aka CDIs in-place) • Only one (1) IEN Corridor Server • Up to fifteen (15) IEN WorkstationsOnly one (1) IEN Utility Server	• Project Management – $1,476 • COTS Updates (Section II.A.3 & II.A.4) – $1,323 • COTS w/in 1 Major Release (Section II.A.5 & II.A.6) – $1,309 • Deficiencies (Section II.A.7) & Problem Logs (Section II.A.8) – $796 • Preventive Maintenance & System Management (Section II.B) – $474 • Corrective Maintenance (Section II.C) – $5,932 • Contractor Responsibilities (Section V) – $500 **TOTAL = $11,810**
2.	• Up to ten (10) Traffic Control System (TCS) Sites (aka CDIs in-place) • Up to four (4) IEN Corridor Servers • Only one (1) IEN Regional Server • Up to forty-five (45) IEN WorkstationsOnly one (1) IEN Utility Server	• Project Management – $1,476 • COTS Updates (Section II.A.3 & II.A.4) – $1,400 • COTS w/in 1 Major Release (Section II.A.5 & II.A.6) – $1,963 • Deficiencies (Section II.A.7) & Problem Logs (Section II.A.8) – $1,188 • Preventive Maintenance & System Management (Section II.B) – $569 • Corrective Maintenance (Section II.C) – $8,709 • Contractor Responsibilities (Section V) – $630 **TOTAL = $15,935**
3.	• Up to thirty (30) Traffic Control System (TCS) Sites (aka CDIs in-place) • Up to four (4) IEN Corridor Servers • Only one (1) IEN Regional Server • Up to seventy-five (75) IEN WorkstationsOnly one (1) IEN Utility Server	• Project Management – $1,550 • COTS Updates (Section II.A.3 & II.A.4) – $1,554 • COTS w/in 1 Major Release (Section II.A.5 & II.A.6) – $2,611 • Deficiencies (Section II.A.7) & Problem Logs (Section II.A.8) – $1,580 • Preventive Maintenance & System Management (Section II.B) – $666 • Corrective Maintenance (Section II.C) – $11,583 • Contractor Responsibilities (Section V) – $756 **TOTAL = $20,300**

Level #	System Software Configuration Supported by Contractor	Firm Fixed Price per Month
4.	• Up to fifty (50) Traffic Control System (TCS) Sites (aka CDIs in-place) • Up to four (4) IEN Corridor Servers • Only one (1) IEN Regional Server • Up to one-hundred & twenty (120) IEN WorkstationsOnly one (1) IEN Utility Server	• Project Management – $1,627 • COTS Updates (Section II.A.3 & II.A.4) – $1,714 • COTS w/in 1 Major Release (Section II.A.5 & II.A.6) – $3,472 • Deficiencies (Section II.A.7) & Problem Logs (Section II.A.8) – $2,101 • Preventive Maintenance & System Management (Section II.B) – $779 • Corrective Maintenance (Section II.C) – $15,405 • Contractor Responsibilities (Section V) – $907 **TOTAL = $26,005**
NOTES	1. If any one (1) of the System Software Configurations is exceeded per Level, Contractor's Firm Fixed Price (FFP) per Month advances to the subsequent Level.	

MAINTENANCE AND SUPPORT

I. INTRODUCTION.

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

II. SYSTEM MAINTENANCE.

Throughout the Term and in exchange for the payment of the Maintenance Fees in the amounts set forth on Exhibit B (Price) pursuant to the Agreement, Contractor shall provide Maintenance Services for the System Software from Contractor's business premises and/or from County facilities, Monday through Friday from 7 A.M. to 7 P.M. (Pacific Time), (such time period is referred to herein as "Support Hours") provided Contractor shall be available via electronic mail or telephone during all other hours to respond to a request for Maintenance Services arising from a Level I Priority error or malfunction. For any Level I Priority error or malfunction, County shall contact Contractor's TransCore Action Center (1.800.755.0378) for service dispatch twenty-four hours a day, seven days a week. For Level II Priority or Level III Priority errors or malfunctions, County shall contact Contractor via electronic mail (ien@transcore.com). Contractor shall contact County by 8 A.M. of the Working Day following receipt of a request for Maintenance Services made outside of Support Hours. County's Project Manager may submit a request for Maintenance Services in person or via telephone, pager, facsimile, mail, electronic mail (email) or any other reasonable means.

County shall be responsible for obtaining and/or collecting all reported problems with the System Software from the local agencies and contacting Contractor as set forth above. Local agencies shall not contact Contractor directly.

Maintenance Services shall include Contractor performing the following tasks as outlined below:

A. General:

1. County shall endeavor reasonably to provide Contractor with information and assistance necessary to detect, simulate, reproduce, and correct Deficiencies, but regardless of the level of assistance provided by County, Contractor, solely, is responsible for the timely correction of Deficiencies.

2. Contractor shall provide and install System Software Updates to provide County with avoidance procedures including related Documentation, if

necessary, to correct any Deficiencies to the System Software. Any revised Source Code that corresponds to the Updates or in respect of Updates to Customizations, shall be delivered to County pursuant to Paragraph 17.1.1 (Source Code Self Escrow) of the Agreement.

3. Contractor shall provide Updates to the System Software on a regular basis, and as necessary in connection with Maintenance Services, at no additional cost to County beyond the Maintenance Fees, including revisions, corrections, or modifications necessary to make Updates Compatible with: (i) then currently installed version of the System Software, including all Customizations thereto; (ii) subject to Paragraph II.A.5., the then currently installed operating system software; and (iii) System Hardware. Any such revisions, corrections, or modifications necessary to ensure Compatibility of the Updates shall be completed a minimum of thirty (30) Days prior to the scheduled installation date for such Updates. Any Updates necessary to remedy security problems in the System Software (e.g., closing "back doors" or other intrusion-related problems), whether identified by Contractor, County or a third party, shall be provided to County within three (3) Days of Contractor's knowledge of the existence of such security problems. County shall accept and Contractor install each Update to Baseline Software within two (2) years of the release date of such Update.

If County fails to accept an Update within two (2) years of the release date of such Update, Contractor shall maintain the prior version of the Baseline Software on a Time and Materials (T&M) basis at the Hourly Labor Rates set forth in Attachment 2 (Contractor's Applicable Hourly Labor Rates) to Exhibit B (Price). Contractor's responsibilities within this Paragraph II.A.3 shall include the following:

a. Installation of commercial-off-the-shelf ("COTS") software updates to the System Software;

b. Installation of COTS updates to the IEN corridor servers and IEN regional server;

c. Packaging and installation of COTS updates on the IEN utility server(s) to "push-out" said COTS updates to all local agency IEN workstations; and

d. "Push-out" COTS updates to local agency IEN workstations.

County's responsibilities within this Paragraph II.A.3 shall include the following:

i. Procurement of all necessary Third Party Software licenses;

ii. Procurement or provision of systems management server ("SMS") software;

iii. Procurement of an IEN utility server;

iv. Installation of SMS on the IEN utility server that will be used to "push-out" COTS updates to local agency IEN workstations;

v. Provision of a "closed" IEN network including all necessary firewalls, routers, ports and similar equipment.

If the installation of COTS updates fails due to upgraded System Software, Contractor shall resolve the problem as part of these Maintenance Services, which shall include site visits, if necessary.

If the installation of COTS updates fails due to a software delivery mechanism, Contractor shall resolve the problem on a T&M basis at the Hourly Labor Rates set forth in Attachment 2 (Contractor's Applicable Hourly Labor Rates) to Exhibit B (Price).

Contractor shall provide remote support and telephone support to County and to Local Agency system administrators and operators for the services set forth in this Paragraph II.A.3. as part of these Maintenance and Support Services. If on-site support is required from Contractor to perform the services identified in this Paragraph II.A.3. due to County's failure to meet its responsibilities set forth in clauses (i.) through (v.) of this Paragraph II.A.3, then Contractor shall provide such services on a T&M basis at the Hourly Labor Rates set forth in Attachment 2 (Contractor's Applicable Hourly Labor Rates) to Exhibit B (Price).

If County or a local agency upgrades its System Hardware, Contractor shall be responsible for ensuring System Software Compatibility (e.g., migrating the System Software to the new System Hardware) at no additional cost as part of these Maintenance Services; provided, that all of the following conditions are met:

x. Contractor and County shall mutually agree upon the System Hardware list to be used to support the System Software;

y. One (1) System Hardware equipment upgrade shall be performed no more frequently than once every three (3) calendar years, commencing on the Effective Date, provided that System Hardware equipment replacement due to any System Hardware

and/or component failures and/or crashes may occur more frequently, if needed; and

z. Contractor shall support the System Hardware and COTS software identified in Appendix A (Commercial-off-the-Shelf (COTS) Software for the IEN System Software) and Appendix B (IEN Site Server & Workstation Specifications) to this Exhibit C.

If the above conditions are not all met, then Contractor is not responsible for ensuring System Software Compatibility as part of these Maintenance Services.

4. County shall install, on a schedule determined by County's Project Director, any necessary service packs or regular security patches to the operating system software. Contractor shall ensure compatibility of all service packs and provide any Updates to the System Software necessary to make such service packs compatible with the System Software within thirty (30) calendar days after the release of each such service pack at no additional cost to County beyond the Maintenance Fees. In the event it is determined that any operating system service pack or any security patch is not Compatible with any Third Party Software product, Contractor shall provide the County with a workaround to protect the integrity of the System Software until such time as such Third Party Software product is modified by the third party vendor. This incompatibility will be defined as a Level III Priority error or malfunction.

5. Contractor shall provide Maintenance Services for Custom Programming Modifications, Customizations and Interfaces at no additional cost to County beyond the Maintenance Fees. As part of Maintenance Services, Contractor shall ensure the System Software, including all Custom Programming Modifications, Customizations and Interfaces is compatible with the operating system software within one (1) major version release of the then most current publicly available version of the operating system software. Additionally, County is entitled to install, and Contractor shall ensure System Software Compatibility with, one (1) service pack upgrade to the System Software workstation operating system software per calendar year during the Term at no additional cost to County beyond the Maintenance Fees. If the System Software workstation operating system software (as identified in Appendix A (Commercial-off-the-Shelf (COTS) Software for the IEN System Software)) undergoes more than one (1) upgrade every three (3) calendar years (not including service pack upgrades), commencing on the Effective Date, Contractor's services with respect to each additional upgrade shall be performed on a T&M basis at

the Hourly Labor Rates set forth in Attachment 2 (Contractor's Applicable Hourly Labor Rates) to Exhibit B (Price).

6. Contractor shall provide Maintenance Services for Third Party Software that is deemed to be part of the System Software, as described on Appendix D (Third Party Software) to each Schedule of Work at no additional cost to County beyond the Maintenance Fees, regardless of whether the license to such Third Party Software is obtained through Contractor, or is obtained through an extension of an existing County license with such Third Party Software provider. Contractor shall be responsible to support only the System Hardware and Third Party Software identified in Appendix A (Commercial-off-the-Shelf (COTS) Software for the IEN System Software) and Appendix B (IEN Site Server & Workstation Specifications) to this Exhibit. County shall be responsible for purchasing and maintaining the licenses for all Third Party Software. Contractor shall provide Maintenance Services for Third Party Software to maintain the Third Party Software functionality within at least one (1) major release of the Third Party Software. This Paragraph II.A.6 does not apply to Contractor providing Updates for the System Software's ETAK graphics package (as described in Exhibit A (Statement of Work), as Updates with respect to the ETAK graphics package will be provided pursuant to the proposed Tasks as set forth in Exhibit A (Statement of Work), Attachment 1.

7. If County submits a request for Maintenance Services, Contractor 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. Contractor shall be responsible for fixing Deficiencies that arise as a result of modifications made to the current version of operating system software and System Hardware in use by County as of the Effective Date or as updated by mutual agreement of County and Contractor. Contractor shall specify the item of such System Hardware or operating system software that caused the apparent Deficiency.

8. Contractor shall create and maintain an automated problem log, which shall be reviewed on a weekly basis for follow up on unresolved problems. Contractor shall provide a secured access to an Internet web-site to provide problem tracking for the IEN as well as support IEN users. The problem log created by Contractor shall include the following:

a. Problem Number;

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; and

h. Resolution plan and results (in detail).

B. Preventive Maintenance:

As part of Maintenance Services, on a monthly basis and as agreed upon by both County and Contractor, Contractor shall perform preventive maintenance on the System Software ("Preventive Maintenance"). The Preventive Maintenance on the System Software shall include the following: monitor disk space on which the System Software resides; review System Software and server error logs; ensure all Customizations developed by Contractor for County, including all Interfaces, are operational; monitor System Software activities; monitor the status of the System Software production environment and associated software components, any and all such other Preventive Maintenance necessary for the operation of the System Software in accordance with specifications.

Contractor's responsibilities shall include the following:

a. Develop procedures for County to perform system back-ups of the IEN regional server, IEN corridor servers, and IEN utility server;

b. Restore the System, including the IEN regional server, IEN corridor servers, and IEN utility server to full functionality or operations from the System back-ups;

c. Identify files and folders for System back-ups;

d. Develop and update System back-ups and restore procedures to be performed by local agencies and subregional TMCs; and

e. Develop and update procedures for County and local agencies to test and validate System back-ups to confirm they were completed successfully.

County shall perform system back-ups of the System on all System Hardware equipment located at the County TMC in accordance with procedures developed by Contractor. Contractor shall not be responsible for developing, updating, or performing back-up procedures for any non-Contractor developed interfaces to the System. Contractor shall not be responsible for performing system back-ups of the System on System Hardware equipment located at local agency facilities or the sub-regional local agency TMCs. Initially, and with each update, Contractor shall assist County on the System back-up to ensure that the procedures developed successfully complete a valid System back-up. System back-up procedures shall be updated by Contractor as part of each Schedule of Work that is approved by County and shall be updated by Contractor every time System Hardware is added to the System. If Contractor must confirm the results of subsequent testing and validation procedures performed by County or local agencies, Contractor shall perform such services on a T&M basis at the Hourly Labor Rates set forth in Attachment 2 (Contractor's Applicable Hourly Labor Rates) to Exhibit B (Price).

C. Corrective Maintenance:

1. As part of Maintenance Services, Contractor 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 specifications, including Response Times.

2. In the event that Corrective Maintenance is required of Contractor, the party who first identifies the Deficiency shall notify the other party of the need for Corrective Maintenance, and County's Project Manager, in County's 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 Contractor under Paragraph II.C.3.a of this Exhibit, as part of Maintenance Services, is available, and which error or malfunction impacts County's normal business operations.

b. "Level II Priority" means an error or malfunction, including a Deficiency, that affects required functionality, but at the time of the error or malfunction a reasonable workaround is available to proceed, and such error or malfunction does not impair County's normal business operations. For an error or malfunction, including

a Deficiency, to be rated as Level II Priority, the required function must be documented in the approved Requirements Traceability Matrix (as described in that certain IEN Detailed Design Document, Volume IV, Appendix 5, Version 1.1, which IEN Detailed Design Document is hereby incorporated by reference as if fully set forth herein) and must be verifiable or repeatable. Response Time that has degraded by fifty percent (50%) or more from the then-current Baseline Response Time, for two (2) days or more, shall be rated as a Level II Priority error or malfunction (for example, if the then-current Baseline Response Time was eight (8) seconds, and the then-current Response Time is twelve (12) seconds, such degradation would be rated as a Level II Priority).

c. "Level III Priority" means an error or malfunction, including a Deficiency, which is inconvenient or an annoyance but does not affect functionality. Response Time that has degraded by twenty five percent (25%) or more, but less than fifty percent (50%), from the then-current Baseline Response Time, for two (2) days or more, shall be rated as a Level III Priority error or malfunction (for example, if the then-current Baseline Response Time was eight (8) seconds, and the then-current Response Time is ten (10) seconds, such degradation would be rated as a Level III Priority).

In the event Contractor disputes County's Project Manager's determination of a Problem Severity Level, Contractor and County shall submit the matter to the Dispute Resolution Procedures set forth in Paragraph 53 (Dispute Resolutions Procedure) of the Agreement.

3. Contractor shall provide Corrective Maintenance in accordance with this Paragraph II.C (Corrective Maintenance), as described below:

a. For Level I Priority, Contractor shall provide timely action to determine if there is a Deficiency. If Contractor reasonably determines that there is a Deficiency, Contractor shall provide continuous action to correct the Deficiency. If a workaround restoring functionality is not provided within one (1) Working Day and the Deficiency is not corrected within the time set by Contractor to provide a resolution to the Deficiency, but in no case more than two (2) Working Days from the later of notice of the Deficiency, or Contractor's ability to access the System Software, Downtime Credits may be applied pursuant to Paragraph III (Downtime Credits) of this Exhibit.

b. For Level II Priority, Contractor shall provide ongoing and diligent action to determine if there is a Deficiency. If Contractor reasonably determines that there is a Deficiency, Contractor shall provide ongoing and diligent action to correct the Deficiency. If a workaround restoring functionality is not provided within two (2) Working Days and the Deficiency is not corrected within five (5) Working Days, Downtime Credits may by applied pursuant to Paragraph III (Downtime Credits) of this Exhibit.

c. For Level III Priority, Contractor shall provide ongoing and diligent action to determine if there is a Deficiency. If Contractor reasonably determines that there is a Deficiency, Contractor shall provide ongoing and diligent action to correct the Deficiency. If not corrected within sixty (60) Days, Downtime Credits may apply pursuant to Paragraph III (Downtime Credits) of this Exhibit. Notwithstanding the preceding sentence, any Corrective Maintenance necessary to remedy Level III Priority security problems in the System Software (e.g., closing "back doors" or other intrusion-related problems), whether identified by Contractor, County or a third party, shall be provided to County within three (3) Days of Contractor's knowledge of the existence of such security problems.

Contractor agrees to resolve, under the terms of this Exhibit C, all outstanding Software Problem/Change Reporting incidences ("SPCRs") arising under or related to Contractor's design of the IEN pursuant to the 1999 Agreement that are outstanding as of the Effective Date of the Agreement. Any SPCR that constitutes a Level I, II, or III Priority error or malfunction shall be resolved as set forth herein.

III. DOWNTIME CREDITS.

A. General:

Downtime Credits shall accrue under this Exhibit for Contractor's failure to maintain System Software reliability, for failure to timely correct Deficiencies, and for the System Software's failure to meet Baseline Response Times, all as described in more detail below and in Paragraph IV (Response Time Warranty) (collectively and individually, "Downtime Credits"). The amount of the Downtime Credit will depend on the extent and duration of Contractor's continuing failures.

B. 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's Project Director, for any System Software component for which Contractor is providing Maintenance Services. Contractor's responsibilities within this Paragraph III.B shall be absolved if any one (1) of the following conditions exists at any point in time within the Term of the Agreement or the provision of these Maintenance Services:

a. the IEN System Hardware, System communications networks and media, System networks (including all necessary firewalls, routers, ports, etc.), or its related systems, including the local agencies' traffic control systems, are not 100% dedicated solely for the support and use of the System Software and other traffic software, including but not limited to the communication and control system software developed by Kimley-Horn and Associates, Inc., known as "KITS", as KITS may be upgraded, updated, enhanced, revised or otherwise modified from time to time; or

b. County does not segregate or partition network traffic and provide the specified bandwidth for communications or leased line as set forth in Exhibit A (Statement of Work).

2. Contractor Downtime Credits (identified below) shall be limited per incidence and per server or per workstation (e.g., there is no "double-counting" of errors or malfunctions). The highest applicable Downtime Credit shall apply.

a. County shall be entitled to a Downtime Credit in the amount of one thirtieth (1/30) month of the applicable Maintenance Fees for every two (2) hours during the Support Hours that there is a Level I Priority error or malfunction, except that Downtime Credits shall not exceed two thirtieths (2/30) of the applicable Maintenance Fees for each Working Day in which a Level I Priority error or malfunction occurs. In no event, shall County be entitled to aggregate Downtime Credits in any one calendar month in excess of the monthly Maintenance Fee.

b. In the event Contractor disputes County's Project Director's determination of Downtime Credits, Contractor and County shall submit the matter to the Dispute Resolution Procedures set forth in Paragraph 53 (Dispute Resolution Procedure) of the Agreement.

c. Downtime Credits shall not be issued for Downtime occurring during mutually agreed scheduled or planned shut down of the System Hardware or System Software for Preventative Maintenance.

d. If Downtime results from use of the System Software by County other than as instructed and documented by Contractor, County shall not be entitled to any Downtime Credits for the affected System Software components, for such period of misuse, provided that Contractor has notified County, in writing, of the details of the alleged misuse within five (5) Working Days of Contractor's discovery of the alleged misuse. County shall review such alleged misuse and shall notify Contractor in writing, within five (5) Working Days, of County's agreement or disagreement with Contractor's allegation(s). In the event County disagrees with Contractor's allegation(s) of misuse, County shall apply Downtime Credits to reduce any amounts due to Contractor, subject to the provisions of Paragraph 53 (Dispute Resolution Procedure) of the Agreement.

C. Downtime Credits – Corrective Maintenance Response Time Failures.

If Contractor fails to provide Corrective Maintenance on a timely basis in accordance with Paragraph II.C (Corrective Maintenance) of this Exhibit, 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 beyond the earlier of: (a) the time set by Contractor for providing a workaround or resolution, or (b) forty-eight (48) hours from the later of notice of the error or malfunction, or Contractor's ability to access the System Software; provided, that Downtime Credits accrued pursuant to this Paragraph III.C.1 during any twenty four (24) hour period shall not exceed an amount equal to three thirtieths (3/30) of the aggregate monthly Maintenance Fee.

2. For Level II Priority errors or malfunctions, Downtime Credit equal to one thirtieth (1/30) of the aggregate monthly Maintenance Fee for each Working Day the Level II Priority error or malfunction continues beyond the earlier of: (a) the time set by Contractor for providing a workaround or resolution, or (b) five (5) Working Days from the later of notice of the error or malfunction, or Contractor's ability to access the System Software; and

3. For Level III Priority errors or malfunctions, Downtime Credit equal to one thirtieth (1/30) of the aggregate monthly Maintenance Fee for each two (2) Working Days the Level III Priority error or malfunction continues beyond the earlier of: (a) the time set by Contractor for providing a workaround or resolution, or (b) sixty (60) Days from the later of notice of the error or malfunction, or Contractor's ability to access the System Software.

D. Downtime Credits—Maximum Amount:

The cumulative total of all Downtime Credits accruing during any one calendar month shall not exceed the monthly Maintenance Fee paid by County to Contractor.

IV. RESPONSE TIME WARRANTY.

A. General:

The response time for the System Software is the time elapsed from the entry of a query at the workstation to the time the workstation fully displays the complete response ("Response Time"). The System Software shall operate in conformity with the Response Times set forth in the applicable Schedule of Work. Contractor shall not be responsible for maintaining System Software Response Times unless the IEN System connections and/or communications to the County or local agencies continuously support a minimum bandwidth of 384 kbps.

B. Response Time Tests:

The initial "Baseline Response Time" shall be the Response Time documented during acceptance testing for the IEN pursuant to the 1999 Agreement. In accordance with the terms of the 1999 Agreement, the initial "Baseline Response Time" shall support a System Software Configuration consisting of no more than (a) one (1) IEN Corridor Server, (b) eighteen (18) IEN Workstations, (c) nine (9) traffic control systems, (d) two thousand (2,000) intersections, and (e) two thousand (2,000) detectors. Upon County's observation of System Software Response Times that have degraded by fifty percent (50%) or more from the then-current Baseline Response Time (as defined below), Contractor agrees to isolate and determine the cause of such poor System Software Response Times and to achieve specified Baseline Response Times. Every County-requested Response Time Test shall be performed by Contractor on a T&M basis at the Hourly Labor Rates set forth in Attachment 2 (Contractor's Applicable Hourly Labor Rates) to Exhibit B (Price). The Baseline Response Time shall be reestablished each time that any one (1) of the thresholds set forth in clauses (a) through (e) above is exceeded. In addition, the Baseline Response Time shall be reestablished during the acceptance testing procedure performed as part of each Schedule of Work that

is approved by County. If any Deficiencies are noted for any Response Times, Downtime Credits may be applied pursuant to Paragraph III.C (Downtime Credits – Corrective Maintenance Response Time Failures) of this Exhibit.

V. CONTRACTOR RESPONSIBILITIES.

Without limiting Contractor's responsibilities to provide Maintenance and Support Services as set forth in this Agreement, Contractor shall provide the following Maintenance and Support Services to the County for the System Software:

A. Resolving issues with the System Software components and configurations (both hardware and software);

B. Maintaining the System Software Test Environment;

C. Monitoring the system status of the System Software Production and Test Environments;

D. Diagnosing and troubleshooting minor issues that do not require software fixes;

E. Providing support for unknown and/or anticipated growth; and

F. Maintaining and supporting, remotely or on-site as necessary, workstations at participating Agencies in accordance with this Exhibit C.

VI. RESPONSIBILITIES OF OTHERS

Contractor shall not be responsible for providing the following Maintenance and Support Services to the County: (i) communications networks and associated components; (ii) Agency networking equipment and associated components; and (iii) associated hardware components, provided that nothing in this Paragraph VI shall limit Contractor's obligations under the Agreement to maintain the Compatibility of Hardware and System Software. If County requests, Contractor shall provide these services on a T&M basis at the Hourly Labor Rates set forth in Attachment 2 (Contractor's Applicable Hourly Labor Rates) to Exhibit B (Price).

VII. LOCATION OF SYSTEM SOFTWARE MAINTENANCE AND SUPPORT SERVICES

Contractor shall provide the Maintenance and Support Services for the System Software (as described herein) at every location that is connected to the System Software.

Appendix A

Commercial-off-the-Shelf (COTS) Software for the IEN System Software

APPENDIX A – COMMERICAL-OFF-THE-SHELF (COTS) SOFTWARE FOR THE IEN SYSTEM SOFTWARE

This table summarizes the COTS software that will be used by the IEN System Software application within the IEN Master Agreement's Exhibit C – Maintenance and Support.

COTS Name	Version
Operating Systems	- IEN Workstations – Windows 2000 Professional - IEN Servers – Windows 2003 Advanced Server
CORBA ORBs	- TAO 1.4.1 for Windows-based software - OmniORB 3.03 for Series 2000 CDI on the OpenVMS platform
Corridor Database	Oracle 10g
Workstation Database	Microsoft Access 2000

Appendix B

IEN Site Server & Workstation Specifications

APPENDIX B – IEN SITE SERVER & WORKSTATION SPECIFICATIONS

Minimal Site Server and Workstation Hardware Specifications

Component	Site Server	Workstation
CPU	2.4 GHz	2.4 GHz
Memory	512 MB	512 MB
Hard Drive	20 GB	20 GB
Network Interface Card	100 Mbps	100 Mbps

Site Server and Workstation Software Specifications

Component	Site Server	Workstation
Operating System	Windows 2000 Server or Professional, Windows 2003 Server	Windows 2000 Professional
Oracle Database	n/a	Oracle 10.1.0.2 Client
Microsoft Access	n/a	Access 2000
Graphics Editor	n/a	MS Visio (or similar)

EXHIBIT D

TASK/DELIVERABLE ACCEPTANCE CERTIFICATE

(Contractor Name and Address)	TRANSMITTAL DATE
TASK/DELIVERABLE ACCEPTANCE CERTIFICATE	CONTRACT NUMBER TITLE

FROM:	TO:
_____ Contractor's Project Manager (Signature Required)	_____ County's Project Director _____

Contractor 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. Contractor further represents and warrants that the Work performed in respect of such Tasks and Deliverables has been completed in accordance with Exhibit A (Statement of Work). County's approval and signature constitutes an acceptance of the Tasks and Deliverables listed below.

TASK DESCRIPTION (including Task and Subtask numbers as set forth in the Statement of Work and applicable Schedule(s) of Work)	DELIVERABLES (including Deliverable numbers as set forth in the Statement of Work and applicable Schedule(s) of Work)

Comments:

Attached hereto is a copy of all supporting documentation required pursuant to the Agreement and Exhibit A (Statement of Work), including any additional documentation reasonably requested by County.

County Acceptance:

NAME _____ SIGNATURE _____ DATE _____
County's Project Director

Distribution: Original - Financial Services
Copy 1 - Contractor
Copy 2 - County's Project Manager
Copy 3 - Master Contract File

EXHIBIT E

CONTRACT FOR

_____SERVICES

CONTRACTOR EMPLOYEE ACKNOWLEDGMENT, CONFIDENTIALITY, AND ASSIGNMENT AGREEMENT

(Note: This certification is to be executed and returned to County with Contractor's executed Contract. Work cannot begin on the Contract until County receives this executed document.)

CONTRACTOR NAME _____

Contract No. _____

Employee Name _____

GENERAL INFORMATION:

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

EMPLOYEE ACKNOWLEDGEMENT:

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

I understand and agree that I am not an employee of the County of Los Angeles for any purpose whatsoever and that I do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of my performance of Work under the above-referenced contract. I understand and agree that I do not have and will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

CONFIDENTIALITY AGREEMENT:

I may be involved with Work pertaining to services provided by the County of Los Angeles and, if so, I may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, I may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. I understand that if I am involved in County Work, the County must ensure that I, too, will protect the confidentiality of such data and information. Consequently, I understand that I must sign this agreement as a condition of my Work to be provided by my employer for the County. I have read this agreement and have taken due time to consider it prior to signing.

Initials of Signer _____

Execution Copy

Contractor Name _____ Contract No. _____

Employee Name_____

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

Except as permitted under the above referenced Contract, I agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor proprietary information and all other original materials produced, created, or provided to or by me under the above-referenced contract. I agree to protect these confidential materials against disclosure to other than my employer or County employees who have a need to know the information. I agree that if proprietary information supplied by other County vendors is provided to me during this employment, I shall keep such information confidential.

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

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 Contract, (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 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 expressly acknowledge and agree that I wish to remain anonymous and not to have my name or any pseudonyms used in connection with any Works, goods or services I provide under this agreement or the above referenced Contract.

I acknowledge that violation of this agreement may cause irreparable harm to County, which may not be compensated by monetary damages, and may subject me to civil and/or criminal action and that the County of Los Angeles may seek all possible legal and equitable redress, including, without limitation, injunctive relief.

SIGNATURE: _____ DATE: ____/____/____

PRINTED NAME: _____

POSITION: _____

EXHIBIT F

CONTRACTOR'S EEO CERTIFICATION

TransCore ITS, Inc.
Contractor's Name
Local: *TransCore ITS, Inc., 626 Wilshire Blvd., Suite 818, Los Angeles, CA 90017*
Corporate: 8158 Adams Drive, Liberty Centre Bldg 200, Hummelstown, PA 17036
Address
94-3198006
Internal Revenue Service Employer Identification Number

GENERAL

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

CONTRACTOR'S CERTIFICATION

		YES	NO
1.	The Contractor has a written policy statement prohibiting discrimination in all phases of employment.	☒	☐
2.	The Contractor periodically conducts a self analysis or utilization analysis of its work force.	☒	☐
3.	The Contractor has a system for determining if its employment practices are discriminatory against protected groups.	☒	☐
4.	Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action, to include establishment of goals or timetables.	☒	☐

James M. Strain, Vice President, Human Resources
Name and title of signer

Signature

6/17/2005
Date

EXHIBIT G

INVOICE DISCREPANCY REPORT

1. ISSUE:

   Today's Date: _____

   Contractor: _____

   Phone Number: _____

   Name: _____

   Date of Subject Invoice: _____

   Invoice Number of Subject Invoice: _____

   Total Value of Subject Invoice: _____

   Disputed Value of Subject Invoice: _____

   Description of Disputed Charges:

   _____

   _____

   _____

2. REVIEWED/SIGNED:

   Signed: _____ Date: _____

   County's Project Director (CPD)

3. CONTRACTOR RESPONSE (completed by Contractor's Project Manager) _____

   Date received from CPD: _____

   Explanation regarding Disputed Charges:

   _____

   _____

   _____

   Corrective Action Taken:

   _____

   _____

   _____

   Signed: _____ Date: _____

   Contractor's Project Manager

Instructions: CPD : Forward IDR to the Contractor for investigation and response.
Contractor: Must respond to CPD in writing within ten (10) days of receipt of IDR.

JPMorgan

EXHIBIT H

JPMorgan Chase Bank, N.A.
c/o JPMorgan Treasury Services
Global Trade Services
10420 Highland Manor Drive
Tampa, FL 33610
Tel.: 866-632-5101

SPECIMEN

-VALUE DATE-
OUR L/C NO.: D-620876

TO:
COUNTY OF LOS ANGELES
DEPT. OF PUBLIC WORKS
TRAFFIC AND LIGHTING DIV.
P.O. BOX 1460
ALHAMBRA, CA 91802-1460

APPLICANT:
TRANSCORE ITS, INC.
8158 ADAMS DRIVE
LIBERTY CENTRE - BUILDING 200
HUMMELSTOWN, PA 17036

WE ENCLOSE HEREWITH (AS A PERMANENT PART OF THIS LETTER OF CREDIT) AN IRREVOCABLE STANDBY LETTER OF CREDIT OPENED IN YOUR FAVOR SUBJECT TO UCP500

TRANSACTION REFERENCE NUMBER:	D-620876
DATE AND PLACE OF EXPIRY:	MARCH 31, 2006 AT OUR COUNTER
DOCUMENTARY CREDIT AMOUNT:	USD500,000.00
AUTO EXTENSION:	YES
EXTENSION PERIOD:	12 MONTH(S)
NOTIFICATION PERIOD:	30 DAY(S)

THIS LETTER OF CREDIT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

PLEASE REVIEW THE DETAILS OF THIS ENCLOSURE AND THE ATTACHED LETTER OF CREDIT IMMEDIATELY AND CONTACT OUR CUSTOMER SERVICE AREA AT 1-866-632-5101 IF YOU HAVE ANY QUESTIONS.

JPMorgan

EXHIBIT H

JPMorgan Chase Bank, N.A.
c/o JPMorgan Treasury Services
Global Trade Services
10420 Highland Manor Drive
Tampa, FL 33610
Tel.: 866-632-5101

SPECIMEN

-VALUE DATE-
OUR L/C NO.: D-620876

AUTHORIZED SIGNATURE

********* DRAFT MARCH 21, 2005 08:30 AM *********

FROM (MON) 3. 21' 05 10:17/ST. 10:16/NO. 4861529423 P 3

JPMorgan

EXHIBIT H

JPMorgan Chase Bank, N.A.
c/o JPMorgan Treasury Services
Global Trade Services
10420 Highland Manor Drive
Tampa, FL 33610
Tel.: 866-632-5101

SPECIMEN

-VALUE DATE-
OUR L/C NO.: D-620876

TO BENEFICIARY:

COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
TRAFFIC AND LIGHTING DIVISION
P.O. BOX 1460
LOS ANGELES, CA 90012

APPLICANT:
TRANSCORE ITS, INC.
8158 ADAMS DRIVE
LIBERTY CENTRE - BUILDING 200
HUMMELSTOWN, PA 17036

GENTLEMEN:

WE HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. D-620876 IN YOUR FAVOR FOR THE ACCOUNT OF TRANSCORE ITS, INC., 8158 ADAMS DRIVE, LIBERTY - CENTRE BUILDING 200, HUMMELSTOWN, PA. 17036 IN THE AGGREGATE AMOUNT OF EXACTLY U.S. DOLLARS 500,000.00 (FIVE HUNDRED THOUSAND AND 00/100 UNITED STATES DOLLARS), EXPIRING AT OUR COUNTERS IN TAMPA, FLORIDA WITH OUR CLOSE OF BUSINESS ON MARCH 31, 2006.

THIS LETTER OF CREDIT IS AVAILABLE FOR PAYMENT AT JPMORGAN CHASE BANK, N.A., 333 SOUTH GRAND AVE, FLOOR 36, LOS ANGELES, CA 90071-1504 OR JPMORGAN CHASE BANK, N.A., C/O JPMORGAN TREASURY SERVICES, 10420 HIGHLAND MANOR DRIVE, 4TH FLOOR, TAMPA, FLORIDA 33569, ATTN: STANDBY LETTER OF CREDIT DEPT.

DRAWINGS MAY BE PRESENTED VIA FAX/AND CONFIRMED BY PHONE AS STATED BELOW:

JPMORGAN CHASE BANK, N.A.
C/O JPMORGAN TREASURY SERVICES
10420 HIGHLAND MANOR DRIVE, 4TH FLOOR
TAMPA, FLORIDA 33610
ATTENTION: MANAGER STANDBY LETTER OF CREDIT DEPARTMENT
MARKED "URGENT"
TELECOPIER NUMBER: (813)-432-5162

********* DRAFT MARCH 21, 2005 08:30 AM *********

JPMorgan

EXHIBIT H

JPMorgan Chase Bank, N.A.
c/o JPMorgan Treasury Services
Global Trade Services
10420 Highland Manor Drive
Tampa, FL 33610
Tel.: 866-632-5101

SPECIMEN

-VALUE DATE-
OUR L/C NO.: D-620876

TELEPHONE NUMBER: (866)-632-5101 (CHOOSING OPTION NUMBER 3)

THIS LETTER OF CREDIT IS AVAILABLE FOR PAYMENT BY PRESENTATION OF YOUR DRAFTS AT SIGHT DRAWN ON US BEARING THE CLAUSE: "DRAWN UNDER JPMORGAN CHASE BANK, N.A. LETTER OF CREDIT NO. D-620876", ACCOMPANIED BY THE FOLLOWING:

BENEFICIARY'S DATED STATEMENT, PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COUNTY OF LOS ANGELES, DEPT. OF PUBLIC WORKS, TRAFFIC AND LIGHTING DIVISION, CERTIFYING:

"THE AMOUNT DRAWN UNDER JPMORGAN CHASE BANK LETTER OF CREDIT NO. D-620876 RESULTS FROM THE FAILURE OF TRANSCORE ITS, INC. TO PERFORM CERTAIN OBLIGATIONS UNDER AN AGREEMENT FOR THE COUNTYWIDE INFORMATION EXCHANGE NETWORK FOR THE COUNTY OF LOS ANGELES AS REFERENCED IN THE PROJECT MANAGEMENT & SYSTEM INTEGRATION SUPPORT - PROJECT #2304011."

SPECIAL CONDITIONS:

PARTIAL DRAWING(S) ALLOWED.

ALL DRAFTS MUST INDICATE THE NUMBER AND DATE OF THIS CREDIT. WE HEREBY ENGAGE WITH YOU THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WILL BE DULY HONORED UPON PRESENTATION OF DOCUMENTS TO US ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT.

FOR INFORMATION AND REFERENCE ONLY, WE ARE INFORMED THAT THIS STANDBY LETTER OF CREDIT SECURES THE OBLIGATIONS OF TRANSCORE ITS, INC. UNDER THE AGREEMENT FOR INFORMATION EXCHANGE NETWORK PROJECT, AGREEMENT NUMBER (.....), DATED (.....), 2005 BY AND AMONG TRANSCORE ITS, INC. AND THE COUNTY OF LOS ANGELES, AS HEREAFTER AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME (THE "AGREEMENT").

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT IS DEEMED TO BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ONE YEAR FROM THE EXPIRY DATE HEREOF, OR ANY FUTURE EXPIRATION DATE, UNLESS THIRTY (30) DAYS PRIOR TO ANY EXPIRATION DATE WE NOTIFY YOU BY REGISTERED MAIL OR COURIER THAT WE

JPMorgan

EXHIBIT H

JPMorgan Chase Bank, N.A.
c/o JPMorgan Treasury Services
Global Trade Services
10420 Highland Manor Drive
Tampa, FL 33610
Tel.: 866-632-5101

SPECIMEN -VALUE DATE-
OUR L/C NO.: D-620876

ELECT NOT TO CONSIDER THIS LETTER OF CREDIT EXTENDED FOR ANY SUCH ADDITIONAL PERIOD.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED, THIS DOCUMENTARY CREDIT IS SUBJECT TO UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS, 1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO.500.

PLEASE DIRECT ANY CORRESPONDENCE INCLUDING DRAWING OR INQUIRY QUOTING OUR REFERENCE NUMBER TO JPMORGAN CHASE BANK, N.A., C/O JPMORGAN TREASURY SERVICES, 10420 HIGHLAND MANOR DRIVE, 4TH FLOOR, TAMPA, FLORIDA 33610, ATTENTION: STANDBY LETTER OF CREDIT DEPARTMENT. CUSTOMER INQUIRY NUMBER IS (866) 632-5101 AND CHOOSE OPTION 3.

THIS LETTER OF CREDIT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS

This copy is a preliminary draft of a potential advice of the issuance of or amendment to a letter of credit. It is provided as a courtesy, for informational purposes only and without any responsibility on the part of JPMorgan Chase Bank, N.A. The terms are not final and may be modified. Upon completion of our further review, we will revert either with (i) a final advice of the letter of credit/amendment, (ii) a notification that we are unable to advise the letter of credit/amendment.

AUTHORIZED SIGNATURE

COMPANY NAME
AGREES TO THE WORDING OF THIS STANDBY LETTER OF CREDIT

AUTHORIZED SIGNATURE

********* DRAFT MARCH 21, 2005 08:30 AM *********

083014 U665238

FROM (MON) 3. 21' 05 10:17/ST. 10:16/NO. 4861529423 P 6

CIO ANALYSIS

INFORMATION EXCHANGE NETWORK (IEN) PROJECT
CONSULTANT SERVICES AGREEMENT

CIO RECOMMENDATION: ☒ **APPROVE** ☐ **APPROVE WITH MODIFICATION** ☐ **DISAPPROVE**

Contract Type:
☐ **New Contract** ☐ **Contract Amendment** ☐ **Contract Extension**
☒ **Sole Source Contract**

New/Revised Contract Term: **Base Term:** 3 **Yrs** **# of Option Yrs** 5

Contract Components:
☒ **Software** ☐ **Hardware** ☐ **Telecommunications**
☒ **Professional Services**

Project Executive Sponsor: Jane White

Budget Information :

Y-T-D Contract Expenditures	
Requested Contract Amount	$5,088,410
Aggregate Contract Amount	

Project Background:

Yes	No	Question
☐	☒	Is this project legislatively mandated? The project is not mandated, but access to Federal funding is dependent on compliance with Federal Highway Administration regulations met via this project.
☒	☐	Is this project subvented? If yes, what percentage is offset? 85% of the project is funded via the Metropolitan Transportation Authority's 1995 Call for Projects Grant Funds

Strategic Alignment:

Yes	No	Question
☒	☐	Is this project in alignment with the County of Los Angeles Strategic Plan? The project is aligned with the goals of Service Excellence and Organizational Effectiveness

☒	☐	Is this project consistent with the currently approved Department Business Automation Plan?
☒	☐	Does the project's technology solution comply with County of Los Angeles IT Directions Document?
☒	☐	Does the project technology solution comply with preferred County of Los Angeles IT Standards?

Project/Contract Description:
This project continues work performed since 1994 to design and enhance Intelligent Transportation Systems (ITS) in various cities within the County and its unincorporated areas. In 2002, in conjunction with the overall ITS program, an Information Exchange Network (IEN) was designed and piloted along the I-210 Freeway corridor. A primary objective of the IEN is to support information sharing and control of various traffic control systems within the County and surrounding areas. To date, all work on the ITS and IEN has been performed by TransCore, the sole source consultant proposed for this new agreement.

The scope of this new agreement will include significant enhancements of the County's pilot IEN, followed by a county-wide implementation. A major component of the project is to migrate the IEN software to a new industry standard language (XML) to improve efficiency and effectiveness of communications among disparate systems. Once deployed county-wide, the IEN will improve regional traffic flow and provide a coordinated response to traffic congestion and incidents.

The base term of the agreement is 3 years, subject to successful completion of deliverables and expiration of warranty. The agreement includes maintenance services for the term of the agreement. The 3 year base term can be extended for multiple one-year periods, up to an additional 5 years beyond the 3 year of maintenance services and up to 5 additional years.

Background:
Public Works began work to design an intelligent transportation system (ITS) in 1994. The agreement consultant at that time was JHK and Associates, d.b.a. TransCore. The budget for the original project was $1,078,861. During the design phase of the project new requirements were identified, significantly expanding the scope of the overall project. Following the expiration of the 1994 agreement, a revised Scope of Work was developed, and a new agreement ($1,755,867) was issued to TransCore in 1999. The 1999 project included the initial design and pilot deployment of the (IEN) which was achieved via a series of 5 supplements or amendments to that agreement. The overall County obligation, from 1994 through 2005, was $4,116,237.

Project Justification/Benefits:
This project will result in more effective and efficient coordination of traffic signal synchronization, thus reducing traffic congestion, improving mobility, and reducing vehicle emissions. The full deployment of the IEN within the County will improve the overall quality of life for the County's residents.

Project Metrics
Project success will be measured by the increased geographical coverage of the IEN, which can be specifically measured by the number of intersections included in the network. A successful deployment will improve traffic flow and reduce vehicle emissions and fully support the exchange of information from and between other jurisdictions and the County.

Impact If Proposal Is Not Approved
If full implementation of the proposed tasks and deployment of the IEN information did not occur, the County would not be able to demonstrate compliance with the Federal Highway Administration regulations, which would prohibit the department from receiving future Federal funds.

Alternatives Considered:
Another vendor/consultant was not considered. Because the consultant is familiar with the IEN they are the most qualified entity to complete this work in the most cost effective and efficient manner. Our office has determined that the Department did not complete the 2 week Sole Source Board notification prior to negotiations with the vendor for this Agreement. In our discussions on this issue, the Department represented that they view this Agreement as a renewal of their existing (Sole Source) relationship with TransCore and therefore did not need the 2 week prior notice. Our office will follow up with the Department to reinforce the policy for future sole source activities.

Project Risks:
Additional risk related to technology issues is possible. Specifically, the Statement of Work reflects a strong reliance on the consultant for analyzing, developing and implementing a variety of technology related solutions for the IEN. It is imperative that the consultant work with the departmental CIO to include an analysis of the Department and County strategic directions and standards guidelines. .

Overall, there is very little financial risk to the department, as a substantial portion of the project is funded by grants. However, the Metropolitan Traffic Authority (MTA) holds the department responsible for any cost overruns.

Risk Mitigation Measures:
Mitigation of the technology related risk will be effectively managed via the departmental CIO's involvement in the Project. The level of risk associated with the technology portion of this agreement will be commensurate with the level of oversight provided by the Department's Chief Information Office. At a minimum, the CIO's involvement will ensure compliance with County and emerging industry standards and the County's strategic directions.

Additionally, the Department has revised its Change Order process to include the Chief Information Office as an approving authority. In combination, this level of project oversight will minimize risks. The Department supports these risk mitigation measures.

Mitigation of the financial risk will be managed via the Department's compliance with the provisions of the Grant as well as a deliverable based payment plan and a 10% hold back.

Funding for this project is available in the Fiscal Year 2004/2005 Proposition C Local Return Fund Budget. Approximately 85% of the project cost is eligible for reimbursement by Metropolitan Transportation Authority's 1995 Call for Projects Proposition C Discretionary Grant Funds for the Traffic Signal Forums.

Since 1994, the aggregate funding for the ITS/IEN projects is as follows:

1994	ITS	$1,078,861
1999	ITS/IEN	$1,755,867
2000	IEN	$ 151,828
2002	IEN	$ 549,020
2003	IEN	$ 502,000
2003	IEN	$ 78,861
	Total	$4,116,237

Total funding with this Agreement will be:

2005	IEN	$5,088,410 *

Total all Agreements $9,204,647

* Includes the following:
- $ 425,160 3 years maintenance
- $ 608,250 Additional (contingency) services
- $ 95,000 IEN Services from prior Agreement
- $3,960,000 IEN enhancements

CIO Concerns:

CIO Recommendations:
Approve

CIO APPROVAL

Date Received: June 20, 2005

Prepared by: Janette Parker

Date: June 23, 2005

Approved: [signature]

Date: 06/29/2005

SIDLEY AUSTIN BROWN & WOOD LLP

CHICAGO
DALLAS
NEW YORK
SAN FRANCISCO
SEATTLE
WASHINGTON, D.C.

555 WEST FIFTH STREET
LOS ANGELES, CALIFORNIA 90013
TELEPHONE 213 896 6000
FACSIMILE 213 896 6600
www.sidley.com

FOUNDED 1866

BEIJING
HONG KONG
LONDON
SHANGHAI
SINGAPORE
TOKYO

WRITER'S DIRECT NUMBER
(213) 896-6028

WRITER'S E-MAIL ADDRESS
jhofheimer@sidley.com

June 17, 2005

ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL

Raymond G. Fortner, Jr.
County Counsel
Office of County Counsel
County of Los Angeles
648 Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Re: Proposed Agreement by and between the County of Los Angeles and TransCore ITS, Inc. for Information Exchange Network

Dear Mr. Fortner:

Pursuant to the direction of the County of Los Angeles Board of Supervisors ("Board of Supervisors"), you have engaged this firm as outside counsel to provide advice in connection with a proposed agreement (together with the exhibits and attachments thereto, "Proposed Agreement") by and between the County of Los Angeles ("County"), for the benefit of County's Department of Public Works ("DPW"), and TransCore ITS, Inc. ("Contractor") for the development, design and implementation of a countywide information exchange network and related services (collectively, the "System"). Any capitalized term not defined in this letter has the meaning set forth in the Proposed Agreement.

A. Qualifications

Sidley Austin Brown & Wood LLP ("SABW") has broad experience in the computer technology field, including patent, trademark, copyright, trade secret and other intellectual property issues, software development and licensing and related services, acquisition, operation and disposition of computer technology companies, data facility management, telecommunications, and contract disputes. The undersigned has personally had major legal responsibility in multiple aspects of technology agreements, ranging from simple licensing agreements through custom software development agreements, and joint technology development agreements, internet-based agreements, to representation of custom software

developers, internet media companies, satellite-based telecommunications providers, and government agencies.

For many years, SABW has assisted you in representing various departments of County, including DPW, on a variety of computer technology agreements.

Based on the foregoing, we feel well qualified to represent County in connection with this engagement.

B. Scope of Engagement

In connection with our representation, we have spoken to and met extensively with representatives of DPW's Traffic and Lighting Division ("TLD") and Chief Information Office ("DPW-CIO"), County's Chief Information Office ("CIO"), and your staff. We have developed and revised the various drafts of the Proposed Agreement. Additionally, we have participated in negotiations between Contractor and County with respect to the Proposed Agreement. Finally, we have reviewed the Proposed Agreement and its exhibits and attachments in the form to be submitted to the Board of Supervisors.

C. Conclusions

As more fully discussed below, and subject to the reservations taken in the immediately succeeding paragraphs under this heading, we believe that the Proposed Agreement effectively meets County's expressed needs in a manner that appropriately protects County's legal concerns. We also believe that the Proposed Agreement adequately addresses technical issues from a legal perspective. County's risks under the Proposed Agreement are mitigated because, according to DPW staff, Contractor has performed successfully in connection with the development and implementation of County's Traffic Signal Synchronization Operation and Maintenance Program.

We do not possess sufficient business, as distinct from legal, expertise to evaluate on an absolute basis the economics of the Proposed Agreement.

We are lawyers, not software or hardware experts, and defer to DPW's and the CIO's determination regarding the ability of the System to meet County's technical requirements.

Based on and subject to the foregoing, we recommend that the Board of Supervisors approve the Proposed Agreement.

D. Background

In 1994, County entered into an Agreement with Contractor for the conceptualization and detailed design of a countywide traffic signal synchronization operation and maintenance program. County selected Contractor for the conceptualization and design of the system through a Request for Proposals. After the original Agreement expired, County and Contractor entered into a sole sourced Consultant Services Agreement, focusing on the implementation of an information exchange network for the traffic signal synchronization operation and maintenance program. Since the execution of the Consultant Services Agreement in 1999, County and Contractor have executed six supplement agreements to broaden the scope of the Contractor's work and design of an information exchange network, the most recent of which is dated December 16, 2004 (the original Agreement together with all the supplements thereto, collectively, the "1999 Agreement").

County and Contractor desired to expand and develop more fully the information exchange network commenced under the 1999 Agreement. County and Contractor desire to clarify their rights and obligations with respect to certain work still in progress under the 1999 Agreement, as well as obtain maintenance services for the software and system, which maintenance was not included in the 1999 Agreement. The Proposed Agreement is intended to be a consolidated agreement designed to achieve these ends. The Proposed Agreement will apply to goods, services and work originally conceived of, but not yet commenced under, the 1999 Agreement ("1999 Work"). In addition, many of the terms and conditions under the Proposed Agreement, such as license terms for the software, provide County with broader protection than provided originally under the 1999 Agreement.

Under the Proposed Agreement, County will engage Contractor to develop, design and deploy a countywide information exchange network to enhance traffic control efforts. According to DPW, this network will improve coordination among various traffic control systems by providing for the exchange of traffic data and information and connecting heterogeneous traffic control systems onto the exchange network backbone. The system will synchronize the response efforts of public agencies to manage arterial traffic congestion and signal operations, provide the capability to monitor and control the operation of traffic signals between jurisdictions and allow a single operator to effect quickly a broad range of system changes through the implementation of a single coordinated response plan.

The Initial Term of the Proposed Agreement will commence upon approval of the Proposed Agreement by the Board of Supervisors, and will continue through the expiration of the Warranty Period following Contractor's achievement of County's Final System Acceptance. The Proposed Agreement includes five additional one-year "Option Terms," which Option Terms are exercisable by the Director of County's Department of Public Works with authority delegated by the Board of Supervisors under the Proposed Agreement.

E. Maximum Contract Sum and Pricing Issues

Although we did not assist DPW in the negotiation of the price for the goods and services to be provided, we did assist in negotiating some of the payment methodologies, credits, and holdbacks applied to County's payment of such price. The following discussion sets forth Maximum Contract Sum, the payment methodologies, and other pricing issues as incorporated into the Proposed Agreement. Paragraph references are to the body of the Proposed Agreement.

1. Maximum Contract Sum (Paragraph 4.2).

(a) The maximum amount payable by County to Contractor under the Proposed Agreement is $5,088,410 (the "Maximum Contract Sum"), which sum is the all-inclusive price for all of the Work to be performed by Contractor under the Proposed Agreement. The Maximum Contract Sum excludes any goods, services or other work already commenced under the 1999 Agreement regardless whether such work is completed before or after the Effective Date of the Proposed Agreement. Additionally, the Maximum Contract Sum includes the maximum amount of Pool Dollars (as defined below) available to meet contingencies under the Proposed Agreement, as well as Maintenance Fees for Maintenance Services. Although the Proposed Agreement contains a Maximum Contract Sum, Contractor is permitted to modify the payments for any Tasks not issued a Notice to Proceed by County prior to the expiration of the Initial Term. Contractor's modifications of the payments would be based on County's COLA. If some Tasks are not commenced before the Initial Term expires, Contractor's ability to modify payments poses a risk that the Maximum Contract Sum will not be large enough to cover the cost of all the Tasks. However, the risk and increased costs are mitigated since payment modifications are tied to COLA.

(b) The Maximum Contract Sum also does not include the cost of ancillary hardware, equipment, software or other services that are outside the scope of this project but that may be required for the System to be fully operational. DPW is providing a fiscal impact analysis for the Board to better understand the fully-loaded cost of the System.

2. Payment Methodologies.

(a) Fixed Price Work (Exhibit B). The Proposed Agreement contains milestone payments for the various Deliverables and other Work to be provided by Contractor under the Proposed Agreement. As a general matter, Contractor receives payment for Deliverables and Tasks on a fixed price basis and only after Contractor has delivered and County has approved the Deliverables and Tasks. However, solely for draft Documentation Deliverables (which are drafts of written materials that will be provided as Deliverables upon County's approval), County pays Contractor half of the payment for such Documentation upon submission of the draft and the remainder upon approval of the draft Documentation. DPW is comfortable

with the structure for Documentation Deliverables, as it is consistent with DPW's past practice with Contractor. All payments are subject to Holdbacks (described below).

(b) Time and Materials Work (Paragraph 5.1). Time and Materials Work is limited to Project Management & System Integration Support Services provided under Task 1 to the Statement of Work, certain Maintenance Services set forth in Exhibit C (Maintenance and Support) that are outside the scope of typical Maintenance Services, and certain Additional Services, such as customizations or additional training, not included among the services or training to be provided by Contractor under the Statement of Work or under Exhibit C (Maintenance and Support). Such Additional Services are proposed and provided through the use of a Change Order which includes a "not to exceed" amount for the Additional Services, and the aggregate cost of all Additional Services requested under the Agreement will not exceed the amount set forth for Additional Services in Exhibit B (Price) (see discussion in Section F.3 below with respect to Change Orders). County and Contractor also have agreed upon a "not to exceed" amount, set forth in Exhibit B (Price), to be paid in respect of Project Management & System Integration Support Services provided under Task 1. However, County may need to request additional Project Management & System Integration Support Services, not originally anticipated under this Task, for example, due to project delay by County. If County requests additional Project Management & System Integration Support Services, it cannot be guaranteed that the "not to exceed" amount for Project Management & System Integration Support Services set forth in Exhibit B (Price) will be sufficient to cover the additional Project Management & System Integration Support Services requested by County. If the "not to exceed" amount is insufficient, DPW may determine to use Pool Dollars for additional Project Management & System Integration Support Services requested by County. Should Pool Dollars prove insufficient to cover the additional Project Management & System Integration Support Services, an increase in the Maximum Contract Sum for the Proposed Agreement would be required. This increase would be effectuated through an Amendment to the Proposed Agreement, which Amendment would need to be approved by the Board of Supervisors.

(c) Holdbacks (Paragraph 9.3). In order to incentivize Contractor to complete and deliver all Work necessary to complete and deliver the System, County has incorporated a ten percent holdback into the milestone payments payable to Contractor in respect of Work provided under the Proposed Agreement. Under the Proposed Agreement, some Tasks and Schedules of Work will be performed individually, and some will be performed as a group. For individual Tasks and Schedules of Work, Contractor will receive payment in full of the cumulative amount of Holdbacks upon County's acceptance of each Task. For those Tasks and Schedules of Work performed as a group, Contractor will receive the Holdback Amounts upon the earlier of County's System Acceptance of the final Task or Schedule of Work within the group or six months after County's approval of all Tasks or Schedules of Work within the group if all such Tasks or Schedules of work have not yet achieved System Acceptance. The 1999

Agreement also provided for a ten percent holdback, and according to DPW, Contractor has proven to be a reliable service provider.

(d) Pool Dollars (Paragraphs 11.6 and 4.2.2). The Proposed Agreement sets aside $608,250 in Pool Dollars for Additional Services requested by County. Exhibit B (Price) to the Proposed Agreement sets forth the Hourly Labor Rates applicable for the Initial Term for Change Orders utilizing Pool Dollars. In addition, if the amount owed by County to Contractor for an approved Task is less than the amount initially set forth under Exhibit B (Price) for such Task, the excess funds that had been allocated to the Task will be available to be used as Pool Dollars. We have been informed by DPW that the department, in consultation with members of its TLD staff, believes the amount of Pool Dollars will be sufficient to accommodate all Additional Services requested by County throughout at least the Initial Term and several of the Option Terms.

(e) Maintenance and Support Services (Exhibit C). The Proposed Agreement includes $425,160 for Maintenance and Support Services, payable at a rate of $11,810 per month, starting with the first working day following the Effective Date. The Proposed Agreement also sets forth three higher levels of pricing for Maintenance and Support Services, with each higher level determined by the number of traffic control system sites, servers and workstations that have been deployed as of the applicable month. We have been advised by DPW that the $11,810 per month level of Maintenance and Support Services (which amount was used in calculating the Maximum Contract Sum) takes into account DPW's estimate of the System's expansion during the Initial Term and, if applicable, the Option Terms. If the actual expansion exceeds DPW's estimates and requires that County pay a higher level of Maintenance Fees, Pool Dollars may be utilized to pay for the additional Maintenance Fees. However, if Pool Dollars prove insufficient to cover the additional Maintenance Fees, an increase in the Maximum Contract Sum for the Proposed Agreement would be required. This increase would be effectuated through an Amendment to the Proposed Agreement, which Amendment would be approved by the Board of Supervisors. The Maintenance and Support Services being purchased include certain Updates, as further described in Section F.4., below.

(f) Downtime Credits. County is entitled to receive certain downtime credits, which are credited against the monthly Maintenance Fees, if Contractor fails to maintain the System's reliability, fails to timely correct Deficiencies in the System or if the System fails to meet certain Response Times. With respect to Response Times, defined as the periods of time it takes for the System to display a response to a query, County and Contractor have agreed to reestablish the maximum acceptable response time during the acceptance testing procedure performed as part of each Schedule of Work that is approved by County, as opposed to determining a maximum response to include as part of the Proposed Agreement. Contractor was not willing to prospectively agree to a maximum response time that would cover future upgrades, expansion and enhancements. There is a risk to County in agreeing to reestablish Response Times as Work is approved, because it is possible that Contractor will not be able to deliver

certain upgrades, expansion or enhancements to the System while maintaining County's desired Response Times. This risk is mitigated somewhat because County does not have to accept Work if the Response Times proposed by Contractor during acceptance testing are not acceptable. County also has Holdbacks to incentivize Contractor to deliver upgrades, expansion or enhancements that meet or exceed the agreed upon Response Times once completed.

F. Other Significant Legal Issues

We have summarized below the legal issues we perceive to be the most significant.

1. Tasks and Schedules of Work (Paragraph 5.2.2, Exhibit A and Attachments thereto). The Proposed Agreement contains one over-arching Statement of Work (Exhibit A). This Statement of Work outlines the high level expectations for the System and a list of individual Tasks to be completed for the project. In addition, the Statement of Work will provide a "not to exceed" budget for the overall project and for each Task. DPW will determine when Work starts for each Task. When DPW is ready to initiate a Task, it will inform the Contractor by issuing a Task Order. Contractor will prepare a "Schedule of Work" for the Task to be commenced. Each Schedule of Work prepared by the Contractor will outline the subtasks, Deliverables to be provided for each Task, the specifications and delivery schedule for Deliverables, a pricing and payment schedule for Deliverables, and except in the Schedule of Work for Project Management & System Integration Support Services, a fixed price, not to exceed amount, for the completion of all Work under the Task. Contractor's Work for the Task will commence upon County's Project Director's approval of the Schedule of Work. In the event production efficiencies and technological advances enable Contractor to provide Work requested under a particular Task for less than the amount originally set forth in the Proposed Agreement, DPW can request that the parties negotiate the fixed price for such Work. Except for the payment modifications tied to COLA discussed in Section E.1. above, DPW is not obligated to pay for such Work more than the amount originally agreed upon by the parties.

2. Approval of Work (Paragraph 5.3). Upon completion of particular Tasks or Deliverables outlined in the Statement of Work or in any Change Order, the Proposed Agreement requires that Contractor submit a Task/Deliverable Acceptance Certificate to County's Project Director for her written approval. With respect to each particular Task submitted for approval, the Proposed Agreement specifies that County's Project Director's written approval of the Deliverables included in such Task will be based upon the acceptance criteria for such Deliverables. County will not be liable or responsible for payment to Contractor for any Task or Deliverable until County has provided written approval of such Work.

3. Change Orders and Amendments (Paragraph 7). In an effort to maintain tight scrutiny and control over any changes to the terms and conditions of the Proposed Agreement or the scope of the project, Paragraph 7 (Change Orders and Amendments) of the

Proposed Agreement limits changes as follows: (a) for changes that do not materially affect the scope of Work, Term, Maximum Contract Sum or terms and conditions of the Proposed Agreement, a Change Order must be executed by County's Project Director and Contractor's Project Manager, (b) for changes related solely to the scope of Work, but which do not exceed available Pool Dollars, a Change Order must be executed by the Director of DPW and Contractor's Project Manager, and (c) for changes that materially affect the terms and conditions of the Proposed Agreement, the scope of Work, Term, Maximum Contract Sum or exceed available Pool Dollars, a formal amendment must be executed by Contractor and the Board of Supervisors. The Director of DPW is delegated the authority under the Proposed Agreement to implement orders of the Board of Supervisors, such as issuing notices of partial or total termination for convenience or executing Amendments to the Agreement reducing (but not increasing) the Maximum Contract Sum.

4. Maintenance and Support Services (Exhibit E). Under the Proposed Agreement, County will purchase a comprehensive package of Maintenance Services for the System, which include: (a) any upgrades, updates, enhancements, revisions, new version releases, improvements, corrections, bug fixes, patches, and modifications, other than Custom Programming Modifications, to the System Software, (b) any testing or modifications as may be necessary to maintain System Software functionality, including as modified by any Updates, with the then current version of System Hardware and operating system software installed at County site(s), and (c) any updates or modifications required during the Term in order for the System Software and the System to remain in compliance with applicable federal or state and local laws and regulations (collectively, "Update(s)"), which Updates shall be provided by Contractor to County at no additional cost beyond the Maintenance Fees. Any Update delivered by Contractor to County is deemed a part of the System Software and shall be included in the License granted to County pursuant to this Agreement.

5. Indemnity (Paragraph 12.1); Insurance (Paragraphs 12.2 and 12.3). Under the Proposed Agreement, Contractor agrees to provide County with full indemnification against any liabilities arising from Contractor's or Contractor's agents' or subcontractors' acts, errors or omissions. Additionally, Contractor accepts a broad obligation to conduct and to assume the cost of County's defense. Contractor further has agreed to maintain general liability, professional liability, automobile liability and workers' compensation programs of insurance. According to DPW and County Counsel, County's Risk Manager has reviewed and approved the above described insurance provisions attached to the Proposed Amendment. We were also told that Contractor has added County Indemnitees as additional insureds on all such policies.

During negotiations regarding the Proposed Amendment, Contractor first insisted upon the removal of the provision requiring Contractor to maintain a program of intellectual property insurance. This is a standard County proposed provision in current information technology procurement contracts. Contractor, however, proposed to self-insure against such potential liability.

According to DPW, County's Risk Manager will not object to the removal of the intellectual property insurance provision, should DPW find it necessary to do so. DPW has determined to proceed without such protection from Contractor, a decision we find to be reasonable under the given circumstances. First, Contractor has informed DPW that it is not able to acquire an adequate policy of intellectual property insurance because the cost of such a policy is prohibitive. Second, Contractor has been performing satisfactorily under the 1999 Agreement without a claim arising thereunder for actual or alleged infringement of the intellectual property rights of a third party. Third, Contractor is obligated, pursuant to Paragraph 21 (Intellectual Property Indemnification) of the Proposed Agreement, to indemnify County with respect to any loss arising out of any claim that software supplied by Contractor or a subcontractor, or the operation or utilization thereof, infringes the proprietary rights of any third party. Contractor excludes from this intellectual property indemnity obligation claims of infringement to the extent arising from County's use of the System other than in accordance with specifications and applicable Documentation. This exclusion has been reviewed and approved by County's Risk Manager and is not unusual for an intellectual property indemnification provision.

6. Standby Letter of Credit (Paragraph 12.4). Contractor has agreed to furnish to County, on or prior to the Effective Date, an irrevocable standby letter of credit in form and substance satisfactory to County. The standby letter of credit shall have a face amount of $500,000 and shall be maintained until released by County upon expiration of the Final System Acceptance Warranty Period. Throughout the negotiation process, the Contractor resisted the standby letter of credit, as the 1999 Agreement did not contain this requirement. Though not in the amount of the Maximum Contract Sum, DPW staff has expressed that it is comfortable with the standby letter of credit in the amount finally agreed to by the parties. DPW and Contractor have a long-standing relationship, during which Contractor has performed its work and services to the satisfaction of DPW. DPW believes it will continue to enjoy successful performance from Contractor under the Proposed Agreement. In addition, since County is the party who determines whether and when to commence Work on each Task, County can control its risk and exposure under this Proposed Agreement by staging the commencement of Tasks to ensure that the monetary amount of Work to be performed by Contractor at any one time does not substantially exceed the amount of the standby letter of credit. Finally, delay of Contractor's performance poses a greater risk to County than Contractor's non-performance because of the need to integrate this System with other tools that are being acquired from third parties. As a result, DPW determined that it is more advantageous for County to focus on securing adequate holdbacks, which represent receivables to Contractor, and negotiate the terms of the standby letter of credit in the context of the credits and holdbacks. We believe this approach is reasonable.

7. Credits for Failure to Complete Work when Due (Paragraph 9.7). Under the Proposed Agreement, if Contractor fails to provide or complete Deliverables within five working days of their due date, Contractor agrees to provide County a credit of one thousand

dollars for each Day the Deliverable is late. Deliverables will not be deemed late, and credits will not accrue in respect of late delivery arising out of causes beyond Contractor's reasonable control, including County's delay, where Contractor has timely filed a notice of delay pursuant to Paragraph 49 (Notice of Delay) to the Proposed Agreement. The parties heavily negotiated this provision. County originally proposed that County would be entitled to a credit of 5% of the price of each late key Deliverable. Contractor heavily protested, and the parties finally agreed upon a credit of one thousand dollars per day for late delivery of any Deliverable, which conforms to the terms of the 1999 Agreement. This provides County with protection against late delivery of a broader range of Deliverables. The credits arising under this Paragraph are in addition to Downtime Credits (see discussion in Section E.2.(f)).

8. Termination Rights (Paragraphs 45 through 47). Under the Proposed Agreement, County has broad termination rights to terminate for Contractor's insolvency (Paragraph 45 (Termination for Insolvency)), Contractor's default (Paragraph 46 (Termination for Default)) and County's convenience (Paragraph 47 (Termination for Convenience)).

9. Warranty (Paragraphs 28 and 29). Contractor provides a one year warranty that the Tasks delivered under each Schedule of Work or each Change Order will perform according to specifications. Contractor further provides a one year warranty that the System taken as a whole will be compatible and operate in accordance with specifications. These warranty periods provide a longer period of protection than under the 1999 Agreement.

Contractor additionally warrants that (a) the Work and services provided will be free from Deficiencies and Contractor will promptly correct any Deficiencies at no cost to County beyond the Maintenance Fee, (b) Work will be performed in a timely and professional manner by qualified personnel and will comply strictly with descriptions and representations set forth in the Statement of Work, (c) Contractor has the power and authority to grant the License and other rights granted to County under the Proposed Agreement, (d) County is entitled to use the System Software without interruption, (e) Contractor has not encumbered the Proposed Agreement or the System Software, (f) Updates to the System Software will be Compatible with System Hardware and operating system software or Contractor will provide the backward functionality to make it so Compatible, (g) Contractor will not introduce disabling codes, viruses, and other similarly destructive devices, and (h) County's use of the System will not infringe on the intellectual property rights of third parties.

Contractor does disclaim any express or implied warranties other than those set forth in the Proposed Agreement. This disclaimer of other warranties was previously provided in the 1999 Agreement and has been provided in other County information technology contracts. Additionally, it is a standard disclaimer in commercial agreements.

10. Roper Industries, Inc. acquisition of TransCore Holdings, Inc.. On October 6, 2004, Roper Industries, Inc. ("Roper") announced that it had signed an agreement to

purchase TransCore Holdings, Inc., which was the ultimate parent company of Contractor. This acquisition raises the risk that Contractor, as an indirect subsidiary of Roper, will be obligated for any debt incurred by Roper under a credit facility or loan agreement. If Roper defaulted on its obligations and Contractor could not pay these liabilities, Contractor may declare bankruptcy. However, a declaration of bankruptcy would not mean automatically that Contractor is incapable of servicing the Proposed Agreement. In addition, Contractor's liabilities for the debts of an affiliated company is not an out-of-the-ordinary business risk for companies that are subsidiaries to multiple operating companies.

The Proposed Agreement provides County with additional protections against risks arising from the acquisition and potential obligations of Contractor to guaranty the debts of Roper. According to the Proposed Agreement, Contractor (or Roper) cannot pledge the Proposed Agreement or the System Software provided thereunder, to secure debt. In addition, the Proposed Agreement prohibits the Contractor from subordinating the Proposed Agreement to any third party, including creditors, without County's written consent and without ensuring non-disturbance of County's right to use the System Software.

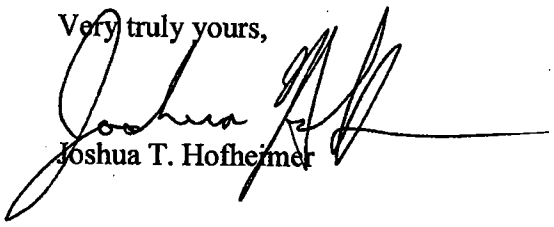
In summary, as to the legal issues, we are satisfied that County has achieved the agreement which it intended to obtain, that the legal provisions appropriate for this type of agreement are included and that technical issues are adequately addressed from a legal standpoint.

Summary and Recommendations

In summary, we believe that the Proposed Agreement does what it is supposed to do, that County's legal needs have been adequately protected, and that technical issues are adequately addressed from a legal standpoint. Accordingly, and subject to the Board of Supervisors' satisfaction with the business and financial aspects of the Proposed Agreement, we recommend that the Proposed Agreement be approved by the Board of Supervisors.

Thank you for this opportunity to be of service to the County of Los Angeles.

Very truly yours,



Joshua T. Hofheimer