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LOS ANGELES COUNTY

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www.dhs.lacounty.gov

To ensure access to high-quality, patient-centered, cost-effective health care to Los Angeles County residents through direct services at DHS facilities and through collaboration with community and university partners.

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October 29, 2013

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

Dear Supervisors:

APPROVAL OF A SOLE-SOURCE EQUIPMENT MAINTENANCE AND REPAIR SERVICES AGREEMENT WITH TOSHIBA AMERICA MEDICAL SYSTEMS, INC.
(1st SUPERVISORIAL DISTRICT)
(3 VOTES)

SUBJECT

Request approval of a sole source Agreement with Toshiba America Medical Systems, Inc. for equipment maintenance and repair services of the Computed Tomography Scanners at Department of Health Services' LAC+USC Medical Center.

IT IS RECOMMENDED THAT THE BOARD:

1. Authorize the Director of Health Services (Director), or his designee, to execute a sole source Agreement with Toshiba America Medical Systems, Inc. (Toshiba), effective upon Board approval, with a term of five years, commencing on December 1, 2013 through November 30, 2018, for the provision of equipment maintenance and repair services of the Computed Tomography Scanners (CT Scanners) at LAC+USC Medical Center (LAC +USC MC), with a five-year cost of $3,405,628 ($681,126 annually) through November 30, 2018.

2. Delegate authority to the Director, or his designee, to amend the above

mentioned Agreement to increase the total maximum obligation by no more than 25 percent above the first contract-year cost for a potential increase of $170,282 annually to add equipment coming off warranty, to authorize and pay for repairs or maintenance for equipment that is excluded under the Agreement's basic maintenance service, and add equipment/services to additional Department of Health Services (DHS) locations.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the first recommendation will allow the Director, or his designee, to execute a sole source Agreement, substantially similar to Exhibit I, to obtain equipment maintenance and repair services for the CT Scanners located at LAC+USC MC. A CT scan creates detailed pictures of the body, including the brain, chest, spine, and abdomen. The scans can be used to diagnose an infection, guide a surgeon to the right area during a biopsy, identify masses and tumors (including cancer), and study blood vessels. The Toshiba CT Scanners provide high-resolution, three-dimensional images at the lowest possible dose. Toshiba's CT technology optimizes the image quality and is the essential foundation for the highest level of diagnostic radiology.

Approval of the second recommendation will allow the Director, or his designee, to increase the maximum obligation of the Agreement up to 25 percent of the annual agreement maximum, if necessary, to add equipment coming off warranty, to delete equipment no longer in service, to authorize and pay for repairs or maintenance for equipment that is excluded under the Agreement's basic maintenance services, to add as-needed professional services, and add equipment/services to additional DHS locations. In accordance with Board Policy 5.120, on October 15, 2013, DHS provided the Board, with a copy to Chief Executive Officer, the required two-week notice of intent to request a delegation of authority in excess of 10 percent.

The Joint Commission on the Accreditation of Healthcare Organizations (The Joint Commission) requires facilities to ensure routine preventative maintenance, timely repairs, and performance/safety testing of its equipment and to maintain patient safety. Therefore, this delegated authority is necessary to enable the Agreement to be amended timely to guarantee that the critical equipment is maintained appropriately, as well as to meet the requirements of The Joint Commission. Board policy generally allows delegated authority to increase the maximum obligation up to 10 percent. However, based on experience in recent years with several other equipment maintenance service agreements, DHS believes that requesting 25 percent for potential increases is appropriate since adding even a few pieces of equipment or an additional facility may require a significant funding increase.

The DHS facilities will only request that equipment or locations be added, if additional services are needed and funding is available in the facility's budget.

Implementation of Strategic Plan Goals

The recommended actions support Goal 1, Operational Effectiveness, and Goal 3, Integrated Services Delivery, of the County's Strategic Plan.

FISCAL IMPACT/FINANCING

The total five-year maximum obligation for Agreement is $3,405,628.

The total five-year potential increase under the 25 percent delegated authority is $851,407 and would be funded using existing resources.

Funding is included in DHS' Fiscal Year 2013-14 Final Budget and will be requested in future fiscal years as necessary.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

LAC+USC MC purchased four Toshiba CT Scanners prior to moving to the Replacement Facility. The equipment is currently covered under extended warranty through November 30, 2013. Toshiba is an Original Equipment Manufacturer (OEM). Whenever possible, the DHS contracts with the OEM to ensure that the medical equipment, which often uses proprietary technology, performs in accordance with equipment specifications. Another benefit to contracting with the OEM is the guarantee of faster access to OEM parts when repair services, especially for emergencies, are needed.

DHS has negotiated free upgrade worth $920,000 to the existing four CT Scanners. The upgrade consists of VeloCT console that includes multiple dose reduction technologies, dose management tools, advanced hardware that enables accelerated workflow and comes with free installation. The upgrade will enhance patient safety and lower patient radiation dose on every CT examination in exchange for five year maintenance and repair services agreement. If the agreement is terminated earlier, the County will need to pay the upgrade cost amortized over the term of the agreement.

DHS has determined that this is not a Proposition A agreement because the services are provided on a part-time and intermittent basis, and therefore, provisions of the County's Living Wage Program County Code Charter 2.201 do not apply.

County Counsel has approved Exhibit I as to form.

CONTRACTING PROCESS

Toshiba is an OEM and is the sole provider of maintenance services and parts for this proprietary equipment. Only Toshiba technicians are certified to repair and maintain the proprietary equipment.

In accordance with Board Policy 5.100, on May 1, 2013, DHS provided the Board, with a copy to Chief Executive Officer, the required advanced notice of sole source agreement negotiation with Toshiba. A sole source justification for the recommended Toshiba Agreement is attached as Attachment A.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommendations will allow DHS to obtain critical equipment maintenance and repair services for LAC+USC MC.

Respectfully submitted,

Mitchell H. Katz, M.D.

Director

MHK:al

Enclosures

c: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors

SOLE SOURCE CHECKLIST

Check (√)	JUSTIFICATION FOR SOLE SOURCE CONTRACTS Identify applicable justification and provide documentation for each checked item.
	• Only one bona fide source for the service exists; performance and price competition are not available.
	• Quick action is required (emergency situation).
	• Proposals have been solicited but no satisfactory proposals were received.
	• Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.
√	• Maintenance service agreements exist on equipment which must be serviced by the authorized manufacturer's service representatives. The Department of Health Services purchased four Computed Tomography (CT) scanners from Toshiba America Medical Systems (TAMS). Whenever possible, DHS contracts with the original equipment manufacturer (OEM) to ensure that the medical equipment, which often uses proprietary technology, performs in accordance with equipment specifications. Only TAMS technicians are certified to repair and maintain the proprietary equipment.
	• It is most cost-effective to obtain services by exercising an option under an existing contract.
	• It is in the best interest of the County e.g., administrative cost savings, excessive learning curve for a new service provider, etc.
	• Other reason. Please explain:
Deputy Chief Executive Officer, CEO	10/8/13 Date

DEPARTMENT OF HEALTH SERVICES

AGREEMENT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

TOSHIBA AMERICA MEDICAL SYSTEMS, INC.

FOR

PREVENTIVE MAINTENANCE AND REPAIR SERVICES

AGREEMENT PROVISIONS
TABLE OF CONTENTS

PARAGRAPH	TITLE	PAGE
RECITALS		**1**
1.0	**APPLICABLE DOCUMENTS**	**2**
2.0	**DEFINITIONS**	**3**
3.0	**WORK**	**4**
4.0	**TERM OF AGREEMENT**	**4**
5.0	**AGREEMENT SUM, BILLING AND PAYMENT**	**4**
6.0	**ADMINISTRATION OF AGREEMENT - COUNTY**	**6**
6.1	FACILITY'S PROJECT DIRECTOR	6
6.2	FACILITY'S PROJECT MANAGE	7
6.3	FACILITY'S PROJECT MONITOR	7
7.0	**ADMINISTRATION OF AGREEMENT - CONTRACTOR**	**7**
7.1	CONTRACTOR'S PROJECT MANAGER	7
7.2	CONTRACTOR'S AUTHORIZED OFFICIAL(S)	7
7.3	APPROVAL OF CONTRACTOR'S STAFF	8
7.4	CONTRACTOR'S STAFF IDENTIFICATION	8
7.5	BACKGROUND AND SECURITY INVESTIGATIONS	8
7.6	CONFIDENTIALITY	9
7.7	MEDICAL HEALTH SCREENING	10
7.8	STAFF PERFORMANCE UNDER THE INFLUENCE	10
8.0	**STANDARD TERMS AND CONDITIONS**	**10**
8.1	AMENDMENTS	10
8.2	ASSIGNMENT AND DELEGATION	11
8.3	AUTHORIZATION WARRANTY	12
8.4	BUDGET REDUCTIONS	12
8.5	CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS (45 C.F.R. PART 76)	13
8.6	COMPLAINTS	13
8.7	COMPLIANCE WITH APPLICABLE LAWS, RULES AND REGULATIONS	14
8.8	COMPLIANCE WITH CIVIL RIGHTS LAWS - ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION LAWS	15
8.9	COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM	17

AGREEMENT PROVISIONS
TABLE OF CONTENTS

PARAGRAPH	TITLE	PAGE
8.10	CONFLICT OF INTEREST	19
8.11	CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST	20
8.12	CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS	20
8.13	CONTRACTOR RESPONSIBILITY AND DEBARMENT	20
8.14	CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW	23
8.15	CONTRACTOR'S EXCLUSION FROM PARTICIPATING IN FEDERALLY FUNDED PROGRAM	23
8.16	CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM	24
8.17	CONTRACTOR'S WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM	24
8.18	COUNTY'S QUALITY ASSURANCE PLAN	25
8.19	DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS	25
8.20	EMPLOYMENT ELIGIBILITY VERIFICATION	26
8.21	FACSIMILE REPRESENTATIONS	26
8.22	FAIR LABOR STANDARDS	26
8.23	FEDERAL ACCESS TO RECORDS	27
8.24	FORCE MAJEURE	27
8.25	GOVERNING LAW, JURISDICTION, AND VENUE	28
8.26	HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)	28
8.27	INDEPENDENT CONTRACTOR STATUS	28
8.28	INDEMNIFICATION	29
8.29	GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE	29
8.30	INSURANCE COVERAGE	34
8.31	LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS, AND CERTIFICATES	35
8.32	LIQUIDATED DAMAGES	35
8.33	MOST FAVORED PUBLIC ENTITY	36
8.34	NON EXCLUSIVITY	37
8.35	NOTICE OF DELAYS	37

AGREEMENT PROVISIONS
TABLE OF CONTENTS

PARAGRAPH	TITLE	PAGE
8.36	NOTICE OF DISPUTES	37
8.37	NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT	37
8.38	NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW	37
8.39	NOTICES	38
8.40	PROHIBITION AGAINST INDUCEMENT OR PERSUASION	38
8.41	PUBLIC RECORDS ACT	38
8.42	PUBLICITY	39
8.43	RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT	39
8.44	RECYCLED BOND PAPER	41
8.45	RESTRICTIONS ON LOBBYING	41
8.46	SUBCONTRACTING	41
8.47	TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM	43
8.48	TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM	43
8.49	TERMINATION FOR CONVENIENCE	43
8.50	TERMINATION FOR DEFAULT	44
8.51	TERMINATION FOR IMPROPER CONSIDERATION	45
8.52	TERMINATION FOR INSOLVENCY	46
8.53	TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE	46
8.54	TERMINATION FOR NON-APPROPRIATION OF FUNDS	47
8.55	UNLAWFUL SOLICITATION	47
8.56	VALIDITY	47
8.57	WAIVER	47
8.58	WARRANTY AGAINST CONTINGENT FEES	48
9.0	**UNIQUE TERMS AND CONDITIONS**	**48**
9.1	DATA DESTRUCTION	48
SIGNATURE		**50**

EXHIBITS

A STATEMENT OF WORK

B PRICING SCHEDULE

C CONTRACTOR'S EEO CERTIFICATION

D COUNTY'S ADMINISTRATION

E CONTRACTOR'S ADMINISTRATION

F CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT

G JURY SERVICE ORDINANCE

H SAFELY SURRENDERED BABY LAW

I MEDICAL HEALTH SCREENING

J BUSINESS ASSOCIATE AGREEMENT UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")

AGREEMENT BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

TOSHIBA AMERICA MEDICAL SYSTEMS, INC.

FOR

PREVENTIVE MAINTENANCE AND REPAIR SERVICES

This Agreement and Exhibits made and entered into this __ day of _____, 2013 by and between the County of Los Angeles, hereinafter referred to as County and Toshiba America Medical Systems, Inc. hereinafter referred to as Contractor. Toshiba America Medical Systems, Inc. is located at 2441 Michelle Drive, Tustin, CA 92780.

RECITALS

WHEREAS, the County may contract with private businesses for Medical Equipment Maintenance and Repair Services when certain requirements are met; and

WHEREAS, the Contractor is a private firm specializing in providing preventive maintenance and repair services for radiology equipment; and

WHEREAS, this Agreement is authorized under California Code, Government Code Section 31000 which authorizes the Board of Supervisor to contract for Specialized Medical Services; and

WHEREAS, County desires the services of a Contractor to provide preventive maintenance and repair services on an intermittent, part-time basis; and

WHEREAS, County has determined that the services to be provided under this Agreement are of a technical nature to the extent that DHS is unable to recruit qualified personnel with the requisite training, knowledge, or experience to perform such services; and

WHEREAS, Contractor is authorized under the laws of the State of California to engage in the business of providing preventive maintenance and repair services for equipment, and possesses the competence, expertise, and personnel necessary to provide such services described hereunder; and

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

1.0 APPLICABLE DOCUMENTS

Exhibits A, B, C, D, E, F, G, H, I, and J are attached to and form a part of this Agreement. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Agreement and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Agreement and then to the Exhibits according to the following priority.

Standard Exhibits:

1.1 EXHIBIT A - Statement of Work

1.2 EXHIBIT B - Pricing Schedule

1.3 EXHIBIT C - Contractor's EEO Certification

1.5 EXHIBIT D - County's Administration

1.6 EXHIBIT E - Contractor's Administration

1.7 EXHIBIT F - Contractor Acknowledgement and Confidentiality Agreement

1.8 EXHIBIT G - Jury Service Ordinance

1.9 EXHIBIT H - Safely Surrendered Baby Law

1.10 EXHIBIT I - Medical Health Screening

1.11 EXHIBIT J - Contractor's Obligations As A "Business Associate" Under The Health Insurance Portability And Accountability Act of 1996 (HIPAA) And The Health Care Information Technology For Economic And Clinical Health Act (HITECH)

This Agreement and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersedes all previous agreements, written and oral, and all communications between the parties relating to the subject matter of this Agreement. No change to this Agreement shall be valid unless prepared pursuant to sub-paragraph 8.1 - Amendments and signed by both parties.

2.0 DEFINITIONS

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

2.1 Agreement: This contract executed between County and Contractor. It sets forth the terms and conditions for the issuance and performance of the Statement of Work, Exhibit A.

2.2 Contractor: The sole proprietor, partnership, limited liability company or corporation that has entered into this Agreement with the County to perform or execute the work covered by the Statement of Work.

2.3 Contractor Project Manager: The individual designated by the Contractor to administer the Agreement operations after the Agreement award.

2.4 Day(s): Calendar day(s) unless otherwise specified.

2.5 DHS: Department of Health Services

2.6 Director: Director of Health Services or his authorized designee.

2.7 Facility: Medical Centers, Rehabilitation Centers, Health Centers, or Ambulatory Care Centers all within Department of Health Services.

2.8 Facility Project Director: Person designated by County with authority for County on contractual or administrative matters relating to this Agreement that cannot be resolved by the Facility's Project Manager.

2.9 Facility Project Manager: Person designated by Facility's Project Director to manage the operations under this Agreement.

2.10 Facility Project Monitor: Person with responsibility to oversee the day to day activities of this Agreement. Responsibility for inspections of any and all tasks, deliverables, goods, services and other work provided by the Contract.

2.11 Fiscal Year: The twelve (12) month period beginning July 1st and ending the following June 30th.

3.0 WORK

3.1 Pursuant to the provisions of this Agreement, the Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth herein.

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

4.0 TERM OF AGREEMENT

4.1 The term of this Agreement shall commence on December 1, 2013 and shall continue in full force and effect to and include November 30, 2018, unless sooner terminated or extended, in whole or in part, as provided in this Agreement.

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

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

5.0 AGREEMENT SUM, BILLING AND PAYMENT

5.1 The Contractor shall be paid in accordance with Exhibit B – Pricing Schedule.

5.2 The Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the County's express prior written approval.

5.3 The Contractor shall maintain a system of record keeping that will allow the Contractor to determine when it has incurred seventy-five

percent (75%) of the total Agreement authorization under this Agreement. Upon occurrence of this event, the Contractor shall send written notification to DHS at the address herein provided in Exhibit D - County's Administration.

5.4 No Payment for Services Provided Following Expiration/ Termination of Agreement

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

5.5 Invoices and Payments

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

5.5.2 The Contractor's invoices shall be priced in accordance with Exhibit B - Pricing Schedule.

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

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

5.5.5 All invoices under this Agreement shall be submitted in two (2) copies to the following address:

LAC+USC Medical Center
P.O. Box 861749
Los Angeles, CA 90086-1749
Attn: Expenditure Management

5.5.6 County Approval of Invoices All invoices submitted by the Contractor for payment must have the written approval of the Facility's Project Manager prior to any payment thereof. In no event shall the County be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld.

5.6 Maximum Obligation of County

5.6.1 The annual maximum obligation of County for all services provided hereunder shall not exceed Six Hundred Eighty-One Thousand One Hundred Twenty-Six Dollars ($681,126), effective December 1, 2013 through November 30, 2018.

5.6.2 During the term of this Agreement, the Director, or his designee, may amend Exhibit B – Pricing Schedule if additional maintenance and repair services are needed to adjust the maximum obligation annually by no more than twenty-five percent (25%) of the current annual maximum obligation for unforeseen, needed maintenance and repair services, and/ or if equipment is added/removed to/from any Medical Facility. To implement such a change, a written amendment to the Agreement, which is formally executed by the parties, must be executed.

6.0 ADMINISTRATION OF AGREEMENT - COUNTY

The Director shall have the authority to administer this Agreement on behalf of the County. Director retains professional and administrative responsibility for the services rendered under this Agreement. A listing of all County Administration referenced in the following sub-paragraphs is designated in Exhibit D - County's Administration. The County shall notify the Contractor in writing of any change in the names or addresses shown.

6.1 FACILITY'S PROJECT DIRECTOR

Responsibilities of the Facility Project Director include:

- ensuring that the objectives of this Agreement are met; and
- providing direction to the Contractor in the areas relating to County policy, information requirements, and procedural requirements.

6.2 FACILITY'S PROJECT MANAGE

The responsibilities of the Facility's Project Manager include:

- meeting with the Contractor's Project Manager on a regular basis; and
- inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of the Contractor.

The Facility'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.

6.3 FACILITY'S PROJECT MONITOR

The Facility's Project Monitor is responsible for overseeing the day-to-day administration of this Agreement. The Project Monitor reports to the Facility's Project Manager.

7.0 ADMINISTRATION OF AGREEMENT - CONTRACTOR

7.1 CONTRACTOR'S PROJECT MANAGER

7.1.1 The Contractor's Project Manager is designated in Exhibit E - Contractor's Administration. The Contractor shall notify the County in writing of any change in the name or address of the Contractor's Project Manager.

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

7.2 CONTRACTOR'S AUTHORIZED OFFICIAL(S)

7.2.1 Contractor's Authorized Official(s) are designated in Exhibit E. Contractor shall promptly notify County in writing of any change in the name(s) or address(es) of Contractor's Authorized Official(s).

7.2.2 Contractor represents and warrants that all requirements of Contractor have been fulfilled to provide actual authority to such officials to execute documents under this Agreement on behalf of Contractor.

7.3 APPROVAL OF CONTRACTOR'S STAFF

County has the absolute right to approve or disapprove all of the Contractor's staff performing work hereunder and any proposed changes in the Contractor's staff, including, but not limited to, the Contractor's Project Manager.

7.4 CONTRACTOR'S STAFF IDENTIFICATION

Contractor shall provide, at Contractor's expense, all staff providing services under this Agreement with a photo identification badge.

7.5 BACKGROUND AND SECURITY INVESTIGATIONS

7.5.1 At the discretion of the County, all Contractor staff performing work under this Agreement may be required to undergo and pass, to the satisfaction of County, a background investigation as a condition of beginning and continuing to work under this Agreement. County shall use its discretion in determining the method of background clearance to be used, which may include but is not limited to fingerprinting. The fees associated with obtaining the background information shall be at the expense of the Contractor, regardless if the Contractor's staff passes or fails the background clearance investigation. County may perform the background check and bill Contractor for the cost or deduct such amount from funds owed by County to Contractor.

7.5.2 County may request that the Contractor's staff be immediately removed from working on the County Agreement at any time during the term of this Agreement. County will not provide to the Contractor nor to the Contractor's staff any information obtained through the County conducted background clearance.

7.5.3 County may immediately, at the sole discretion of the County, deny or terminate facility access to the Contractor's staff that do not pass such investigation(s) to the satisfaction of the County and/or whose background or conduct is incompatible with County facility access.

7.5.4 Disqualification, if any, of the Contractor's staff, pursuant to this sub-paragraph 7.5, shall not relieve the Contractor of its obligation to complete all work in accordance with the terms and conditions of this Agreement.

7.6 CONFIDENTIALITY

7.6.1 Contractor shall maintain the confidentiality of all records and information, including, but not limited to, billings, County records and patient records, in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality, including, without limitation, County policies concerning information technology security and the protection of confidential records and information.

7.6.2 Contractor shall indemnify, defend, and hold harmless County, its Special Districts, elected and appointed officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, administrative penalties and fines assessed including, without limitation, defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with this sub-paragraph 7.6, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this sub-paragraph 7.6 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of County without County's prior written approval.

7.6.3 Contractor shall inform all its officers, employees, agents and subcontractors providing services hereunder of the confidentiality and indemnification provisions of this Agreement.

7.6.4 Contractor shall sign and adhere to the provisions of the "Contractor Acknowledgement and Confidentiality Agreement", Exhibit F.

7.7 MEDICAL HEALTH SCREENING

Contractor shall ensure that all of its staff providing services and/or entering a DHS Facility, under this Agreement at the time of participation hereunder, have undergone and successfully passed a current physical health examination, consistent with current DHS policy and Exhibit I, Medical Health Screening. The cost of the Medical Health Screening shall be at the expense of the Contractor. The Pre-placement or Pre-assignment Health Clearance Packets, Annual Health Screening Packet, and EHS Policies may be accessed at:

http://cg.dhs.lacounty.gov/EHS_Forms/EHSBLANKFORM.htm

7.8 STAFF PERFORMANCE UNDER THE INFLUENCE

Contractor shall not knowingly permit any employee to perform services under this Agreement while under the influence of any alcoholic beverage, medication, narcotic, or other substance which might impair their physical or mental performance.

8.0 STANDARD TERMS AND CONDITIONS

8.1 AMENDMENTS

8.1.1 For any change which affects the scope of work, term, Agreement Sum, payments, or any term or condition included under this Agreement, an Amendment shall be prepared by the County and then executed by the Contractor and by the Board of Supervisors.

8.1.2 The County's Board of Supervisors or designee may require the addition and/or change of certain terms and conditions in the Agreement during the term of this Agreement. The County reserves the right to add and/or change such provisions as required by the County's Board of Supervisors. To implement such changes, an Amendment to the Agreement shall be prepared by the County and then executed by the Contractor and by the Director or his designee. Notwithstanding the above, no Amendment shall govern unless it is mutually executed by the County and Contractor.

8.1.3 The Director or his designee, may require, at his sole discretion, the addition and/or change of certain terms and conditions in the Agreement to conform to changes in federal or state law or regulation or County policy, during the term of this Agreement. The County reserves the unilateral right to add and/or change such provisions as required by law, regulation or County policy, to preserve this Agreement's conformity and compliance to federal and state law or regulation or County policy as deemed necessary by the County's Board of Supervisors, County Counsel or the Chief Executive Officer. Notwithstanding the above, no Amendment shall govern unless it is mutually executed by the County and Contractor.

8.1.4 The Director or his designee may amend Exhibit B – Pricing Schedule to add or delete equipment inventory or add or delete DHS facilities, subject to an amendment to be signed by both parties.

8.1.5 The Director or his designee may increase the maximum obligation by more than 25% of the total maximum obligation of Agreement to accommodate increase in cost due to additional service and equipment inventory. To implement such a change a written amendment to the Agreement, which is formally executed by the parties, must be executed.

8.2 ASSIGNMENT AND DELEGATION

8.2.1 The Contractor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this sub-paragraph, County consent shall require a written amendment to the Agreement, which is formally approved and executed by the parties. Any payments by the County to any approved delegate or assignee on any claim under this Agreement shall be deductible, at County's sole discretion, against the claims, which the Contractor may have against the County.

8.2.2 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(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Agreement, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Agreement.

8.2.3 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of the Agreement which may result in the termination of 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.

8.3 AUTHORIZATION WARRANTY

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

8.4 BUDGET REDUCTIONS

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

8.5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS (45 C.F.R. PART 76)

Contractor hereby acknowledges that the County is prohibited from contracting with and making sub-awards to parties that are suspended, debarred, ineligible, or excluded or whose principals are suspended, debarred, ineligible, or excluded from securing federally funded contracts. By executing this Agreement, Contractor certifies that neither it nor any of its owners, officers, partners, or directors or other principals is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Further, by executing this Agreement, Contractor certifies that, to its knowledge, none of its subcontractors, at any tier, or any owner, officer, partner, director, or other principal of any subcontractor is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Contractor shall immediately notify County in writing, during the term of this Agreement, should it or any of its subcontractors or any principals of either be suspended, debarred, ineligible, or excluded from securing federally funded contracts. Failure of Contractor to comply with this provision shall constitute a material breach of this Agreement upon which the County may immediately terminate or suspend this Agreement.

8.6 COMPLAINTS

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

8.6.1 Within 30 business days after Agreement effective date, the Contractor shall provide the County with the Contractor's policy for receiving, investigating and responding to user complaints.

8.6.2 The County will review the Contractor's policy and provide the Contractor with approval of said plan or with requested changes.

8.6.3 If the County requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the plan within 15 business days for County approval.

8.6.4 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the County for approval before implementation.

8.6.5 The Contractor shall preliminarily investigate all complaints and notify the Facility's Project Manager of the status of the investigation within 15 business days of receiving the complaint.

8.6.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.

8.6.7 Copies of all written responses shall be sent to the Facility's Project Manager within 15 business days of mailing to the complainant.

8.7 COMPLIANCE WITH APPLICABLE LAWS, RULES AND REGULATIONS

8.7.1 In the performance of this Agreement, Contractor shall comply with all current and applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, including, but not limited to standards of The Joint Commission, its National Patient Safety Goals, California Code of Regulations, Title 22, Division 5 regulations and all other applicable industry best practices standards. All provisions required thereby to be included in this Agreement are incorporated herein by reference.

8.7.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, administrative penalties and fines assessed, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this sub-paragraph 8.7 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be

entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

8.8 COMPLIANCE WITH CIVIL RIGHTS LAWS - ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION LAWS

8.8.1 The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17); the Fair Employment & Housing Act, Government Code Section 12920-12922; and Affirmative Action in County Agreements, Chapter 4.32 of the Los Angeles County Code to the end that no person shall, on the grounds of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

8.8.2 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

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

8.8.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation.

8.8.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

8.8.6 The Contractor shall allow County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this sub-paragraph 8.8 when so requested by the County.

8.8.7 If the County finds that any provisions of this sub-paragraph 8.8 have been violated, such violation shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement. While the County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Agreement.

8.8.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Agreement, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars ($500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Agreement.

8.8.9 Anti-discrimination in Services:

Contractor shall not discriminate in the provision of services hereunder because of race, color, religious creed, national origin, ethnic group identification, ancestry, age, sex, sexual orientation, medical condition, marital status, political affiliation, or physical or mental disability in accordance with requirements of Federal and State laws. For the purpose of this sub-paragraph, discrimination in the provision of services may include, but is not limited to, the following: Denying any person any service or benefit or the availability of a facility; providing any service or benefit to a person which is not equivalent or is provided in a non-equivalent manner or at a non-equivalent time, from that provided to others; subjecting any person to segregation or separate treatment in any manner related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirements or conditions which persons must meet in order to be provided any service or benefit. Contractor shall take affirmative action to ensure that intended beneficiaries of this Agreement are provided services without regard to race, color, religious creed, national origin, ethnic group identification, ancestry, sex, sexual orientation, age, medical condition, marital status, political affiliation, physical or mental disability.

8.8.10 The Contractor shall certify to, and comply with, the provisions of Exhibit C - Contractor's EEO Certification.

8.9 COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM

8.9.1 Jury Service Program

This Agreement is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as Exhibit G and incorporated by reference into and made a part of this Agreement.

8.9.2 Written Employee Jury Service Policy

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

2. For purposes of this sub-paragraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of $50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any subcontractor to perform services for the County under the Agreement, the subcontractor shall also be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the Agreement.

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

an exception to the Jury Service Program. In either event, the Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Agreement and at its sole discretion, that the Contractor demonstrate, to the County's satisfaction that the Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that the Contractor continues to qualify for an exception to the Program.

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

8.10 CONFLICT OF INTEREST

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

8.10.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this sub-paragraph shall be a material breach of this Agreement.

8.11 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST

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

8.12 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

8.12.1 Should the Contractor require additional or replacement personnel after the effective date of this Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. If the Contractor decides to pursue consideration of GAIN/GROW participants for hiring, the Contractor shall provide information regarding job openings and job requirements to DPSS' GAIN/GROW staff at GAINGROW@dpss.lacounty.gov. The County will refer GAIN/GROW participants by job category to the Contractor.

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

8.13 CONTRACTOR RESPONSIBILITY AND DEBARMENT

8.13.1 Responsible Contractor

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

8.13.2 Chapter 2.202 of the County Code

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires

information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing contracts the Contractor may have with the County.

8.13.3 Non-responsible Contractor

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

8.13.4 Contractor Hearing Board

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

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

to the tentative proposed decision prior to its presentation to the Board of Supervisors.

3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.

5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to

reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.13.5 Subcontractors of Contractor

These terms shall also apply to subcontractors of County Contractors.

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

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used. Information on how to receive the poster can be found on the Internet at www.babysafela.org.

8.15 CONTRACTOR'S EXCLUSION FROM PARTICIPATING IN FEDERALLY FUNDED PROGRAM

8.15.1 Contractor hereby warrants that neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part, (which includes Medicare, Medi-Cal and Healthy Families) and that Contractor will notify Director within ten (10) calendar days in writing of: (1) any event that would require Contractor or a staff member's mandatory exclusion from participation in a Federally funded health care program; and (2) any exclusionary or suspension action taken by any agency of the Federal or State governments against Contractor or one or more staff members barring it or the staff members from participating in a Federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

8.15.2 Contractor shall indemnify and hold County harmless against any and all loss or damage County may suffer arising from any exclusion or suspension of Contractor or its staff members from such participation in a Federally funded health care program.

8.15.3 Failure by Contractor to meet the requirements of this sub-paragraph shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

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

8.16.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

8.16.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Agreement to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

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

8.17.1 Contractor acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

8.17.2 Unless Contractor qualifies for an exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this contract will maintain compliance, with Los Angeles Code Chapter 2.206.

8.18 COUNTY'S QUALITY ASSURANCE PLAN

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

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

8.19 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

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

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

8.19.3 County reserves the unilateral right to make any repairs which Director determines, in his sole discretion, to be a public safety issue requiring immediate repair. County will bill Contractor for the cost of said repair or deduct said cost from any outstanding amounts owed by County to Contractor.

8.20 EMPLOYMENT ELIGIBILITY VERIFICATION

8.20.1 The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Agreement meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by law.

8.20.2 The Contractor shall indemnify, defend, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Agreement.

8.21 FACSIMILE REPRESENTATIONS

The County and the Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments prepared pursuant to sub-paragraph 8.1, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments to this Agreement, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of “original” versions of such documents.

8.22 FAIR LABOR STANDARDS

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but

not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

8.23 FEDERAL ACCESS TO RECORDS

If, and to the extent that, Section 1861(v)(1)(l) of the Social Security Act (42 U.S.C. Section 1395x(v)(1)(l) is applicable, Contractor agrees that for a period of five (5) years following the furnishing of services under this Agreement, Contractor shall maintain and make available, upon written request, to the Secretary of the United States Department of Health and Human Services or the Controller General of the United States, or to any of their authorize representatives, the Agreements, books, documents and records of Contractor which are necessary to verify the nature and extent of the costs of services provided hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through any subcontract with a value or cost of Ten Thousand Dollars ($10,000) or more over a twelve (12) month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents and records of the subcontractor.

8.24 FORCE MAJEURE

8.24.1 Neither party shall be liable for such party's failure to perform its obligations under and in accordance with this Agreement, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this sub-paragraph as "force majeure events").

8.24.2 Notwithstanding the foregoing, a default by a subcontractor of Contractor shall not constitute a force majeure event, unless such default arises out of causes beyond the control of both Contractor and such subcontractor, and without any fault or negligence of either of them. In such case, Contractor shall not be liable for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule. As used in this sub-paragraph, the term

"subcontractor" and "subcontractors" mean subcontractors at any tier.

8.24.3 In the event Contractor's failure to perform arises out of a force majeure event, Contractor agrees to use commercially reasonable best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event

8.25 GOVERNING LAW, JURISDICTION, AND VENUE

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

8.26 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

The County is subject to the Administrative Simplification requirements and prohibitions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules"). Under this Agreement, the Contractor provides services to the County and the Contractor receives, has access to, and/or creates Protected Health Information as defined in Exhibit J in order to provide those services. The County and the Contractor therefore agree to the terms of Exhibit J, Business Associate Under Health Insurance Portability and Accountability Act of 1996 (HIPAA).

8.27 INDEPENDENT CONTRACTOR STATUS

8.27.1 This Agreement is by and between the County and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

8.27.2 The 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. The County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.

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

8.27.4 The Contractor shall adhere to the provisions stated in sub-paragraph 7.6 - Confidentiality.

8.28 INDEMNIFICATION

The Contractor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, agents and volunteers ("County Indemnitees") from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the Contractor's acts and/or omissions arising from and/or relating to this Contract, except for such loss or damage arising from the sole negligence or willful misconduct of the County Indemnitees.

8.29 GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE

Without limiting Contractor's indemnification of County, and in the performance of this Agreement and until all of its obligations pursuant to this Agreement have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in Sections 8.29 and 8.30 of this Agreement. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other Contractual obligation imposed upon Contractor pursuant to this Agreement. The County in no way warrants that the Required Insurance is sufficient to protect the

Contractor for liabilities which may arise from or relate to this Agreement.

8.29.1 Evidence of Coverage and Notice to County

- Certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and its Agents (defined below) has been given Insured status under the Contractor's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under this Agreement.

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

- Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Agreement by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Contractor identified as the contracting party in this Agreement. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand ($50,000.00) dollars, and list any County required endorsement forms.

- Neither the County's failure to obtain, nor the County's receipt of, or failure to object to a non-

complying insurance certificate or endorsement, or any other insurance documentation or information provided by the Contractor, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

Certificates and copies of any required endorsements shall be sent to:

County of Los Angeles
Department of Health Services
Contracts and Grants Division
313 N. Figueroa Street, 6E
Los Angeles, CA 90012
Attention: Kathy K. Hanks, C.P.M.
Director, Contracts and Grants Division

Contractor also shall promptly report to County any injury or property damage accident or incident, including any injury to a Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Contractor. Contractor also shall promptly notify County of any third party claim or suit filed against Contractor or any of its Sub-Contractors which arises from or relates to this Agreement, and could result in the filing of a claim or lawsuit against Contractor and/or County.

8.29.2 Additional Insured Status and Scope of Coverage

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

8.29.3 Cancellation of or Changes Insurance

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

8.29.4 Failure to Maintain Insurance

Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Agreement, upon which County immediately may withhold payments due to Contractor, and/or suspend or terminate this Agreement. County, at its sole discretion, may obtain damages from Contractor resulting from said breach. Alternatively, the County may purchase the Required Insurance, and without further notice to Contractor, deduct the premium cost from sums due to Contractor or pursue Contractor reimbursement.

8.29.5 Insurer Financial Ratings

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

8.29.6 Contractor's Insurance Shall Be Primary

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

8.29.7 Waivers of Subrogation

To the fullest extent permitted by law, the Contractor hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to this Agreement. The Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

8.29.8 Sub-Contractor Insurance Coverage Requirements

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

8.29.9 Deductibles and Self-Insured Retentions (SIRs)

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

8.29.10 Claims Made Coverage

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

8.29.11 Application of Excess Liability Coverage

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

8.29.12 Separation of Insureds

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

8.29.13 Alternative Risk Financing Programs

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

8.29.14 County Review and Approval of Insurance Requirements

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

8.30 INSURANCE COVERAGE

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

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

8.30.2 Automobile Liability insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than $1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising

out of Contractor's use of autos pursuant to this Agreement, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

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

8.31 LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS, AND CERTIFICATES

Contractor shall obtain and maintain in effect during the term of this Agreement, all valid licenses, permits, registrations, accreditations, and certificates required by law which are applicable to its performance of this Agreement, and shall ensure that all of its officers, employees, and agents who perform services hereunder obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations, accreditations, and certificates required by law which are applicable to their performance of services hereunder. All such licenses, permits, registrations, accreditations, and certifications relating to services hereunder shall be made available to County upon request.

8.32 LIQUIDATED DAMAGES

8.32.1 If, in the judgment of the Director, or his/her designee, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the Director, or his/her designee, at his/her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire monthly payment or deduct pro rata from the Contractor's invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from

payments to the Contractor from the County, will be forwarded to the Contractor by the Director, or his/her designee, in a written notice describing the reasons for said action.

8.32.2 If the Director, or his/her designee, determines that there are deficiencies in the performance of this Agreement that the Director, or his/her designee, deems are correctable by the Contractor over a certain time span, the Director, or his/her designee, will provide a written notice to the Contractor to correct the deficiency within specified time frames. Should the Contractor fail to correct deficiencies within said time frame, the Director, or his/her designee will deduct from the Contractor's monthly payment the amount described in Exhibit A, Statement of Work, Paragraph 9, Equipment Performance Standards, Subparagraph 9.1. Further, upon giving five (5) days notice to the Contractor for failure to correct the deficiencies, the County may also correct any and all deficiencies and the total costs incurred by the County for completion of the work by an alternate source, whether it be County forces or separate private Contractor, will be deducted and forfeited from the payment to the Contractor from the County, as determined by the County.

8.32.3 The action noted in sub-paragraph 8.32.2 shall not be construed as a penalty, but as adjustment of payment to the Contractor to recover the County cost due to the failure of the Contractor to complete or comply with the provisions of this Agreement.

8.32.4 This sub-paragraph shall not, in any manner, restrict or limit the County's right to damages for any breach of this Agreement provided by law or as specified in Sub-paragraph 8.32.2 and shall not, in any manner, restrict or limit the County's right to terminate this Agreement as agreed to herein.

8.33 MOST FAVORED PUBLIC ENTITY

If the Contractor's prices decline, or should the Contractor at any time during the term of this Agreement provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Agreement, then such lower prices shall be immediately extended to the County.

8.34 NON EXCLUSIVITY

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

8.35 NOTICE OF DELAYS

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

8.36 NOTICE OF DISPUTES

The Contractor shall bring to the attention of the Facility's Project Manager and/or Facility's Project Director any dispute between the County and the Contractor regarding the performance of services as stated in this Agreement. If the Facility's Project Manager or Facility's Project Director is not able to resolve the dispute, the Director or his designee shall resolve it.

8.37 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

The Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

8.38 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

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

8.39 NOTICES

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

8.39.2 **Electronic Notice:** In addition, and in lieu of written notification, the Director, or his designee, shall have the authority to issue any notice to Contractor electronically via e-mail at the designated email address as identified in Exhibit D – Contractor's Administration. This includes all notices or demands required or permitted by the County under this Agreement.

8.40 PROHIBITION AGAINST INDUCEMENT OR PERSUASION

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

8.41 PUBLIC RECORDS ACT

8.41.1 Any documents submitted by the Contractor; all information obtained in connection with the County's right to audit and inspect the Contractor's documents, books, and accounting records pursuant to sub-paragraph 8.43 - Record Retention and Inspection/Audit Settlement of this Agreement; as well as any documents that may have been submitted in response to a solicitation process for this Agreement, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

8.41.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked “trade secret”, “confidential”, or “proprietary”, the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney’s fees, in action or liability arising under the Public Records Act.

8.42 PUBLICITY

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

- The Contractor shall develop all publicity material in a professional manner; and

- During the term of this Agreement, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the Director or his designee. The County shall not unreasonably withhold written consent.

8.42.2 The Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Agreement with the County of Los Angeles, provided that the requirements of this sub-paragraph 8.42 shall apply.

8.43 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

8.43.1 The Contractor shall maintain, and provide upon request by County, accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Agreement.

8.43.2 The Contractor agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Agreement. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the County during the term of this Agreement and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

8.43.3 In the event that an audit of the Contractor is conducted specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, including audits conducted by the Medicare and Medi-Cal programs, or both, then the Contractor shall file a copy of each such audit report, including Statement of Auditing Standards No. 70 Type 2 Reports, with the County's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Agreement. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

8.43.4 Failure on the part of the Contractor to comply with any of the provisions of this sub-paragraph 8.43 shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement.

8.43.5 If, at any time during the term of this Agreement or within five (5) years after the expiration or termination of this Agreement, representatives of the County conduct an audit of the Contractor regarding the work performed under this Agreement, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Contractor, then the difference shall be

either: a) repaid by the Contractor to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County, whether under this Agreement or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Contractor, then the difference shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation for this Agreement exceed the funds appropriated by the County for the purpose of this Agreement.

8.44 RECYCLED BOND PAPER

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

8.45 RESTRICTIONS ON LOBBYING

If any Federal funds are to be used to pay for 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.

8.46 SUBCONTRACTING

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

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

- A description of the work to be performed by the subcontractor;
- A draft copy of the proposed subcontract; and

- Other pertinent information and/or certifications requested by the County.

8.46.3 The Contractor shall indemnify and hold the County harmless with respect to the activities of each and every subcontractor in the same manner and to the same degree as if such subcontractor(s) were the Contractor employees.

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

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

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

8.46.7 The Contractor shall be solely liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the County's consent to subcontract.

8.46.8 The Contractor shall obtain certificates of insurance, which establish that the subcontractor maintains all the programs of insurance required by the County from each approved subcontractor. The Contractor shall ensure delivery of all such documents to:

County of Los Angeles
Department of Health Services
313 N. Figueroa Street – 6th Floor East
Los Angeles, CA 90012
Attention: Kathy K. Hanks, C.P.M.
Director, Contracts and Grants Division

before any subcontractor employee may perform any work hereunder.

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

Failure of the Contractor to maintain compliance with the requirements set forth in sub-paragraph 8.16 - Contractor's Warranty of Adherence to County's Child Support Compliance Program, shall constitute default under this Agreement. Without limiting the rights and remedies available to the County under any other provision of this Agreement, failure of the Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the County may terminate this Agreement pursuant to sub-paragraph 8.50 - Termination for Default and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

8.48 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Failure of Contractor to maintain compliance with the requirements set forth in sub-paragraph 8.17 - Contractor's Warranty of Compliance with County's Defaulted Property Tax Reduction Program shall constitute default under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure of Contractor to cure such default within 10 days of notice shall be grounds upon which County may terminate this Agreement and/or pursue debarment of Contractor, pursuant to County Code Chapter 2.206.

8.49 TERMINATION FOR CONVENIENCE

8.49.1 This Agreement may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ninety (90) days after the notice is sent.

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

- Stop work under this Agreement on the date and to the extent specified in such notice, and

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

8.49.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Agreement shall be maintained by the Contractor in accordance with sub-paragraph 8.43, Record Retention and Inspection/Audit Settlement.

8.50 TERMINATION FOR DEFAULT

8.50.1 The County may, by written notice to the Contractor, terminate the whole or any part of this Agreement, if, in the judgment of the Director or his designee.

- Contractor has materially breached this Agreement. ; or
- Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Agreement; or
- Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Agreement, or of any obligations of this Agreement and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

8.50.2 In the event that the County terminates this Agreement in whole or in part as provided in sub-paragraph 8.50.1, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services. The Contractor shall continue the performance of this Agreement to the extent not terminated under the provisions of this sub-paragraph.

8.50.3 Except with respect to defaults of any subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in sub-paragraph 8.50.2 if its failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or Contractual capacity, acts of Federal or State

governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this sub-paragraph, the term "subcontractor(s)" means subcontractor(s) at any tier.

8.50.4 If, after the County has given notice of termination under the provisions of this sub-paragraph 8.50, it is determined by the County that the Contractor was not in default under the provisions of this sub-paragraph 8.50, or that the default was excusable under the provisions of sub-paragraph 8.50.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to sub-paragraph 8.49 - Termination for Convenience.

8.50.5 The rights and remedies of the County provided in this sub-paragraph 8.50 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

8.51 TERMINATION FOR IMPROPER CONSIDERATION

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

8.51.2 The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Fraud Hotline at (800) 544-6861 or www.lacountyfraud.org.

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

8.52 TERMINATION FOR INSOLVENCY

8.52.1 The County may terminate this Agreement forthwith in the event of the occurrence of any of the following:

- Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;

- The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;

- The appointment of a Receiver or Trustee for the Contractor; or

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

8.52.2 The rights and remedies of the County provided in this sub-paragraph 8.52 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

8.53 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

The Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Contractor or

any County Lobbyist or County Lobbying firm retained by the Contractor to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Agreement, upon which the County may in its sole discretion, immediately terminate or suspend this Agreement.

8.54 TERMINATION FOR NON-APPROPRIATION OF FUNDS

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

8.55 UNLAWFUL SOLICITATION

Contractor shall inform all of its officers and employees performing services hereunder of the provisions of Article 9 of Chapter 4 of Division 3 (commencing with section 6150) of Business and Professions Code of the State of California (i.e. State Bar Act provisions regarding unlawful solicitation as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to ensure that there is no violation of said provisions by its officers and employees. Contractor agrees that if a patient requests assistance in obtaining the services of any attorney, it will refer the patient to the attorney referral service of all those bar associations within Los Angeles County that have such a service.

8.56 VALIDITY

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

8.57 WAIVER

No waiver by the County of any breach of any provision of this Agreement shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this sub-

paragraph 8.57 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

8.58 WARRANTY AGAINST CONTINGENT FEES

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

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

9.0 UNIQUE TERMS AND CONDITIONS

9.1 DATA DESTRUCTION

9.1.1 All Los Angeles County's (County) data and information is deemed sensitive and confidential. Therefore, under this Agreement, the Contractor has the sole responsibility to ensure all County's data and/or information in Contractor's possession, in any form (implied or expressed) or format including storage media (e.g., hard drives, flash drives, CD/DVDs) are appropriately destroyed and sanitized in a manner that ensures the information is not recoverable as it applies to the following:

9.1.1.1 If in the course of providing Services, the Contractor has knowingly or inadvertently maintained, processed, or stored any of the County's data and/or information; or

9.1.1.2 After it has served the purpose for which the data and/or information was released; or

9.1.1.3 Upon removal or destructions of any Equipment that had County data and/or information within it, whether that equipment was purchased, leased, or rented; or

9.1.1.4 After completion of the services; or

9.1.1.5 Termination of this Agreement; or

9.1.1.6 Otherwise specified in the Statement of Work

9.1.2 The data destruction described above must comply and be consist with:

9.1.2.1 US Department of Defense 5220.22-M data sanitization and clearing directive and methods; and

9.1.2.2 National Institute of Standards and Technology (NIST) Special Publication SP 800-88 titled *Guidelines for Media Sanitization*., Appendix A

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IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be executed by its Director of Health Services, and Contractor has caused this Agreement to be executed in its behalf by its duly authorized officer, the day, month and year first above written.

COUNTY OF LOS ANGELES

By _____
Mitchell H. Katz, M.D.
Director of Health Services

TOSHIBA AMERICA MEDICAL SYSTEMS, NC.
Contractor

By_____
Signature

_____
Printed Name

_____
Title

APPROVED AS TO FORM
BY THE OFFICE OF THE
COUNTY COUNSEL

By _____
Sr. Deputy County Counsel

EXHIBIT A

STATEMENT OF WORK

Table of Contents

1.0 SCOPE OF WORK.....1

2.0 DEFINITIONS.....1

3.0 REQUIRED SERVICES 2

4.0 ADDITIONAL SERVICES 5

5.0 RESPONSIBILITES 5

6.0 ADDITION/DELETION OF FACILITIES AND EQUIPMENT.....7

7.0 QUALITY CONTROL 7

8.0 QUALITY ASSURANCE PLAN 7

9.0 EQUIPMENT PERFORMANCE STANDARDS.....8

ATTACHMENTS

Attachment 1 Department of Health Services Facility List

Attachment 2 Contract Discrepancy Report

STATEMENT OF WORK

1.0 SCOPE OF WORK

Contractor shall provide preventive maintenance and repair services as described in this Exhibit A for the Department of Health Services (DHS) facilities set forth in Exhibit A, Attachment 1, attached hereto and incorporated in by reference. Contractor's services shall include, but not be limited to, the following:

A. Routine Preventive Maintenance Services;
B. As-Needed Support and Repair Services;
C. Develop and maintain a comprehensive equipment inventory.
D. Additional Services, if authorized by DHS and pursuant to requirements in Section 4.0 below.

2.0 DEFINITIONS

Unless otherwise expressly provided or the context otherwise requires, the following definitions for the terms identified below shall be understood to be the meaning of such terms where used in this Exhibit A - Statement of Work.

2.1 "Equipment or System" - shall mean any instrument, apparatus, machine, or other similar or related article, including all operating software and hardware, components, parts, accessories, replacements, and/or upgrades, which is intended for the automated medication management of pharmaceuticals.

2.2 "Routine Preventive Maintenance Services" - shall mean services performed by Contractor to ensure that the equipment shall be capable of performing in all material respects in accordance with manufacturer specifications and maintaining such performance through the term of this Agreement. It shall also mean the specifics set forth in Subsection 3.1 below.

2.3 "As Needed Support and Repair Services" - shall mean the support and repair needed for restoration of equipment, so that it is performing in all material respects in accordance with its manufacturer specifications, on an as-needed basis, as may be required by the Facility. The repair process may also include all software and hardware updates, enhancements interfaces, and corrections. It shall also include all specifications set forth in Subsection 3.2 below.

2.4 "Regular Business Hours" – shall mean Monday through Friday, between 8:00 a.m. and 5:00 p.m., excluding County Holidays.

2.5 "After Hours" – shall mean hours other than Regular Business Hours (e.g. Monday through Friday 5:01 p.m. through 7:59 a.m., weekends and County Holidays).

2.6 "Hard Down" – occurs when the Facility reasonably determines a System has failed and cannot be used.

3.0 REQUIRED SERVICES

Contractor shall provide all the services described in this entire Section 3.0, Required Services, at each equipment's all inclusive flat rate, set forth under "Required Service Flat Rate" in Exhibit B, Pricing Schedule. Further, Contractor shall provide sufficient staff to ensure compliance with response times and repair commitments for all the services described herein.

3.1 Routine Preventive Maintenance Services

3.1.1 Contractor shall provide Facility, a minimum of monthly, Routine Preventive Maintenance Services ("PM Services") for all equipment covered under this Agreement.

3.1.2 PM Services shall be performed on Monday through Friday, between 8:00 a.m. and 9:00 p.m., excluding County Holidays. Contractor shall provide PM Services at times mutually agreed upon by the Facility Project Manager and Contractor.

3.1.3 Contractor shall perform regularly scheduled number of PM Services described in Section 3.1.1 above to meet the requirements set by manufacturer specifications and all appropriate licensing and accrediting agencies [e.g., The Joint Commission, Occupational Safety and Health Administration ("OSHA"), Title 22.].

3.1.4 PM Services exclude installation of equipment, equipment relocation, and modification (other than for repair or maintenance purposes) or refurbishing of equipment.

3.2 As Needed Support and Repair Services

Contractor shall provide As Needed Support and Repair Services at no additional cost. Contractor shall provide As Needed Support and Repair Services when the Facility reasonably believes the equipment is not performing in all material respects in accordance with manufacturer specifications and performance standards. Except in the case of a System Hard Down, all other As Needed Support and Repair Services will be done during Regular Business Hours. In the case of a System Hard Down, Contractor shall be immediately available to provide As Needed

Support and Repair Services (24 hours a day, 7 days a week) at no additional cost to County

3.2.1 Contractor shall provide 30-minute phone response and four-hour on-site response from the time a request by phone and/or email for service was reported by Facility.

3.2.2 As Needed Support and Repair Services include all travel costs, labor and parts, including any necessary equipment enhancement necessary to correct issue at no additional cost to County. Further, all replacement parts shall be new or equivalent to new parts.

3.2.3 Contractor shall provide any bug fixes, patches, minor enhancements, remote configuration (reprograms), updates and modifications to the hardware and software whenever available at no additional cost to County.

3.2.4 Contractor shall rework improperly repaired equipment; Contractor shall correct any damage resulting there from, and supply all necessary parts and materials at no additional cost to County.

3.2.5 Contractor shall replace any defective parts purchased and installed by Contractor and shall repair any damage to the equipment resulting from defective parts at no additional cost to County.

3.3 <u>Service Reports</u>

Contractor shall develop and maintain a written service report of all services provided on all equipment identified under this Agreement. Such service report(s) shall include:

3.3.1 A record of maintenance in accordance with the manufacturer specification and provide such other information as required by the Facility in order to meet all licensing, accrediting and regulatory agency requirements.

3.3.2 Clearly identify the equipment serviced by model number, serial number, Los Angeles County Capital Asset Leasing or Los Angeles County number (if available).

3.3.3 Include an itemization and description of services performed, including electrical checks and calibration reading and preventive maintenance.

3.3.4 Identify the name of the service technician who performed the service, service date, and list any parts installed during repair site visit.

3.3.5 A copy of such service report shall be given to the Facility at the time the service is performed. Such service reports are the property of County and shall remain on-site at each Facility.

3.4 Contractor's Work Schedule

3.4.1 For PM Services Contractor shall submit a work schedule to the Facility Project Manager for review and approval, within ten (10) days prior to starting work. Facility Project Manager will review and approve prior to Contractor starting work. Said work schedules shall be set on an annual calendar identifying all the required ongoing maintenance tasks and task frequencies. The schedules shall list the time frames by day of the week, morning, and afternoon the tasks will be performed.

3.4.2 Contractor shall submit revised schedules when actual performance differs substantially from planned performance, but in all cases the PM Services shall be done at a time that will not cause additional charges to County. Said revisions shall be submitted to the Facility Project Manager for review and approval within five (5) working days prior to scheduled time for work.

3.4.3 Further, no work is authorized for a time, or for a service, that will cause an additional cost to County above the Required Services All Inclusive Flat Rate set forth in Exhibit B, unless it has been specifically authorized by a written Amendment to the Agreement that has been signed by both parties.

3.5 Comprehensive Equipment Inventory

Contractor shall, in collaboration with Facility Project Monitor, provide one annual on-site equipment inventory audit. Contractor shall complete and maintain a comprehensive equipment inventory listing of all equipment covered under this Agreement and shall provide such equipment list to each Facility Project Monitor. Such list shall include each piece of equipment's model number, serial number, and specific location (e.g. room number) at each Facility. Such listing shall also include the Los Angeles County Capital Asset Leasing or Los Angeles County number, where applicable.

3.6 Exclusions

Contractor is not financially responsible to provide the repair services

above should any repair be required by causes other than ordinary use of the equipment, as determined by County. Such causes include, but are not limited to:

3.6.1 Improper use, gross neglect, misplacement, air conditioner or humidity control malfunction or failure, or Facility electrical system malfunction or failure.

3.6.2 Repair, maintenance, modification, relocation, or reinstallation by any other than Contractor-authorized personnel.

4.0 ADDITIONAL SERVICES

Services, other than the services described in Section 3.0 Required Services above, are Additional Services. These Additional Services may be required during Regular Business Hours or After Hours. In the event that Additional Services are authorized by the County, these services shall be billed at the appropriate hourly rate set forth in Exhibit B, Pricing Schedule. However, prior to any Additional Services being authorized, Contractor shall prepare and submit a written description of the work with an estimate of labor and materials. To effectuate Additional Services a written Amendment to the Agreement, which is signed by both parties, must be executed prior to any work beginning.

5.0 RESPONSIBILITES

County

5.1 Personnel

The County will administer the Agreement according with the Agreement, Paragraph 6.0, County Administration. Specific duties will include:

5.1.1 Monitoring the Contractor's performance in the daily operation of this Agreement.

5.1.2 Providing direction to the Contractor in areas relating to policy, information and procedural requirements.

5.1.3 Preparing Amendments in accordance with the Agreement, Paragraph 8.0, Standard Terms and Conditions, Sub-paragraph 8.1, Amendments.

Contractor

5.2 Contractor Personnel

5.2.1 Contractor shall designate a Contractor Project Manager to lead and coordinate Contractor's provision of services described hereunder and act as a central point of contact with County personnel. Contractor Project Manager shall be available during business of Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding County holidays.

5.2.2 Contractor Project Manager shall be responsible for determining daily work duties, staffing levels, scheduling, and staffing hours needed to properly provide services hereunder, which shall be prepared in writing and submitted to the Facility Project Manager for approval, before any such services are provided.

5.2.3 Contractor Project Manager shall institute and maintain appropriate supervision of all persons providing services pursuant to this Agreement. Further, unless directed pursuant to this Agreement by Director to do otherwise, Contractor shall work independently on designated assignments in accordance with the Statement of Work duties contained hereunder.

5.2.4 Contractor service personnel shall be appropriately licensed, certified, credentialed, and trained in accordance with Contractor requirement to perform the PM and repair services hereunder.

5.2.5 Contractor shall assume the sole responsibility for the timely completion of all activities assigned or to be performed hereunder.

5.3 Risk Management Program

5.3.1 Contractor shall, in collaboration with Facility staff, develop and maintain an Equipment Risk Management Program. Such Program shall require written documentation of all medical incidents that involve equipment covered under this Agreement, whereby such equipment has or may have caused or contributed to a patient's injury, serious illness, or death. Such documentation shall describe the incident, the equipment involved in the medical incident, and any subsequent examination of such equipment.

5.3.2 The Facility Project Director, or Facility Project Manager, in consultation with Contractor and Facility's Risk Manager, shall provide direct oversight of all activities to decommission, sequester, and examine any equipment which has been involved in a medical incident. Neither party shall use, clean, discard, alter, or repair any equipment involved in such incident prior to the said equipment's examination.

5.4 Reporting Responsibility

When a condition exists wherein there is imminent danger of injury to the public or damage to property, Contractor shall immediately contact the Facility Project Manager or his/her designee.

5.5 Contractor's Office

Contractor shall maintain an office with a telephone in the company's name where Contractor conducts business. The office shall be staffed during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, by at least one employee who can respond to inquiries and complaints which may be received about the Contractor's performance of the Agreement. When the office is closed, the Contractor shall have the capability to receive messages and respond within one hour after contact by County staff was made to Contractor.

6.0 ADDITION/DELETION OF FACILITIES AND EQUIPMENT

The Director of Department of Health Services or his designee (Director) may add and/or delete DHS Facility(s) and related equipment as necessary to provide services or to assure that Facility(s) operations are maintained. All changes must be made in accordance with the Agreement, Sub-paragraph 8.1 Amendments.

7.0 QUALITY CONTROL

7.1 The Contractor shall establish and utilize a comprehensive Quality Control Plan to assure the County has consistently high level of service throughout the term of the Agreement. The plan shall be submitted to the Facility Project Manager for review. The plan shall include, but may not be limited to the following:

7.2 Contractor's method of monitoring to ensure that Agreement requirements are being met;

7.3 Contractor's procedures for conducting and maintaining complete records of all inspections, any corrective action taken, the time a problem was first identified, a clear description of the problem, and the time elapsed between identification and completed corrective action.

7.4 Contractor shall provide records of inspections and corrective actions to the County upon request.

8.0 QUALITY ASSURANCE PLAN

The County will evaluate Contractor's performance under this Agreement using the quality assurance procedures as defined in the Agreement, sub-paragraph 8.18,

County's Quality Assurance Plan.

8.1 Contract Discrepancy Report

8.1.1 Verbal notification of a Contract discrepancy will be made to the Contractor Project Manager as soon as possible whenever an Agreement discrepancy is identified. The problem shall be resolved within a time period mutually agreed upon by the County and the Contractor.

8.1.2 The Facility Project Monitor will determine whether a formal Contract Discrepancy Report (Attachment 3) shall be issued. Upon receipt of this document, the Contractor is required to respond in writing to the Facility Project Monitor within five (5) workdays with a plan for correction of all deficiencies identified in the Contract Discrepancy Report.

8.2 County Observations

In addition to departmental contracting staff, other County personnel may observe performance, activities, and review documents relevant to this Agreement at any time during normal business hours. However, these personnel may not unreasonably interfere with Contractor's performance.

9.0 EQUIPMENT PERFORMANCE STANDARDS

9.1 Contractor shall guarantee performance uptime for Equipment at a minimum of 98%. The performance of each piece of equipment will be reviewed monthly during each year the equipment is covered under this Agreement. Should Equipment fail to meet the uptime criteria in any calendar month, a credit based upon the service agreement price for the calendar month will be determined as follows:

Equipment Uptime	Monthly Price Credit
98% - 100% uptime	0%
95% - 97.9% uptime	10%
92% - 94.9% uptime	15%
Below 91.9% uptime	20%

Uptime percentage determination: The uptime percentage is determined according to the following formula: Uptime percentage = (Uptime hours/Base hours) x 100. Base hours are the hours Equipment is covered under this Agreement.

9.2 The equipment shall be considered out-of-service if the equipment is inoperable and unusable or the County reasonably initiates down-time procedures due to lack of system or equipment functionality (in either case,

not due to those items set forth in the definition of excluded services, or a force majeure event).

9.3 Any credit for equipment downtime or out-of-services beyond 98% shall be applied to the following month's invoice. Failure by County to assess downtime credit in the following month's invoice shall not constitute a waiver of such right which County may exercise at any subsequent time.

9.4 The equipment is considered out-of-service when it is not functioning according to the material specification of the user manual. "In service" is defined as in use or in stand-by status available for use by County.

9.5 Time spent on regularly scheduled maintenance will be excluded from these performance calculations. Additionally, time the equipment is not operable due to damage from misuse, operator error, inadequate environmental conditions concluding air conditioning, failure or fluctuations in County's electrical power supply, acts of God, strikes or fires, will also be excluded from these performance standards.

9.6 Contractor shall maintain a log specifying the time, date, and the causes of all unplanned equipment downtime.

9.7 County will review the performance of each piece of equipment to evaluation uptime performance standard for equipment items covered under this Agreement.

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Exhibit A, ATTACHMENT 1

DEPARTMENT OF HEALTH SERVICES FACILITY LIST

County of Los Angeles LAC+USC Medical Center
1200 North State Street
Los Angeles, CA 90033

Billing Address
County of Los Angeles
LAC+USC Medical Center
Attn: Expenditure Management
P.O. Box 861749
Los Angeles, CA 90086-1749

Exhibit A, ATTACHMENT 2

CONTRACT DISCREPANCY REPORT

TO: _____

FROM:_____

DATES: _____

Prepared: _____

Returned by Contractor: _____ Action Completed:_____

DISCREPANCY PROBLEMS:

_____

_____

_____

Signature of County Representative _____Date_____

CONTRACTOR RESPONSE: *(Cause and Corrective Action)*

Signature of Contractor Representative_____Date_____

COUNTY EVALUATION OF CONTRACTOR RESPONSE:

Signature of County Representative _____ Date._____

COUNTY ACTIONS: _____

CONTRACTOR NOTIFIED OF ACTION:

County Representative's Signature and Date _____

Contractor Representative's Signature and Date_____

Pricing Schedule
Toshiba America Medical Systems, Inc.
Preventive Maintenance & Repair Services
Effective December 1, 2013 through November 30, 2018

***Required Services All Inclusive Flat Rate:**
LAC+USC Medical Center

Equipment Description	SID #	Included Options	12/1/2013 - 11/30/2014	12/1/2014 - 11/30/2015	12/1/2015 - 11/30/2016	12/1/2016 - 11/30/2017	12/1/2017 - 11/30/2018	TOTAL
AQ64/CFX.000 (Aquilion MS 64 CT Scanner)	230888	Glassware - CTTUBE.B.UNLTD.010 (Unlimited tube coverage); CHEG-004C (ECG Scan Prospective for AQ/MP)	$185,869	$185,869	$185,869	$185,869	$185,869	$929,347
AQ64/CFX.000 (Aquilion MS 64 CT Scanner)	230854	Glassware - CTTUBE.B.UNLTD.010 (Unlimited tube coverage); CHEG-004C (ECG Scan Prospective for AQ/MP)	$150,115	$150,115	$150,115	$150,115	$150,115	$750,575
AQ32/V.000 (Aquilion 32 CT Scanner)	230870	Glassware - CTTUBE.B.UNLTD.010 (Unlimited tube coverage);	$174,245	$174,245	$174,245	$174,245	$174,245	$871,227
AQ32/V.000 (Aquilion 32 CT Scanner)	230862	Glassware - CTTUBE.B.UNLTD.010 (Unlimited tube coverage); TSXF-003F (CT Fluoroscopy)	$170,896	$170,896	$170,896	$170,896	$170,896	$854,479
		TOTAL MAXIMUM OBLIGATION	**$681,126**	**$681,126**	**$681,126**	**$681,126**	**$681,126**	**$3,405,628**

All systems include: VELOCT upgrade (to be delivered/installed within 90 days after the Agreement effective date); The upgrade cost****** is amortized over the term of this Agreement. If the Agreement is terminated by either Party prior to November 30, 2018, all the residual cost remaining based on the depreciation through amortization that is associated with the above mentioned upgrade, are due and payable immediately to Toshiba.

Parts will be replaced when deemed necessary by Toshiba, excluding disposables, accessories, options or upgrades not listed in the Agreement.

Contractor shall invoice County in arrears on a monthly basis.

**Upgrade Cost: $180,000 per equipment (SID#s 230888 & 230854) and $280,000 per equipment (SID#s 230870 & 230862)

Additional Services Hourly Rate (Hourly rate includes all travel and incidental costs)

Regular Business Hours Hourly Rate

- Regular Rate $200 per hour for the hours between 8:00 a.m. and 5:00 p.m.Monday through Friday; 8:00 a.m.; excluding County Holidays.

After Hours Hourly Rate

- Overtime Rate $300 per hour for the hours between 5:00 p.m. and Midnight, Monday through Friday; 8:00 a.m. - Midnight Saturday; excluding County Holidays.
- Premium Rate $450 per hour for the hours between Midnight and 8:00 a.m., Monday through Saturday; and all hours on Sunday and County Holidays.

CONTRACTOR'S EEO CERTIFICATION

_____
Contractor Name

_____
Address

_____
Internal Revenue Service Employer Identification Number

GENERAL CERTIFICATION

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

CONTRACTOR'S SPECIFIC CERTIFICATIONS

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

_____
Authorized Official's Printed Name and Title

_____ _____
Authorized Official's Signature Date

COUNTY'S ADMINISTRATION

AGREEMENT NO. _____

FACILITY'S PROJECT DIRECTOR:

Name: Daniel Amaya

Title: Administrator, Diagnostic Services

Address: 1200 N. State St.

Los Angeles, CA 90033

Telephone: (323) 409-7291 Facsimile: _____

E-Mail Address: damaya@dhs.lacounty.gov

FACILITY'S PROJECT MANAGER:

Name: Daniel Amaya

Title: Administrator, Diagnostic Services

Address: 1200 N. State St.

Los Angeles, CA 90033

Telephone: (323) 409-7291 Facsimile: _____

E-Mail Address: damaya@dhs.lacounty.gov

FACILITY'S PROJECT MONITOR:

Name: Daniel Amaya

Title: Administrator, Diagnostic Services

Address: 1200 N. State St.

Los Angeles, CA 90033

Telephone: (323) 409-7291 Facsimile: _____

E-Mail Address: damaya@dhs.lacounty.gov

CONTRACTOR'S ADMINISTRATION

CONTRACTOR'S NAME:_____

AGREEMENT NO: _____

CONTRACTOR'S PROJECT MANAGER:

Name: _____
Title: _____
Address: _____
_____
Telephone: _____
Facsimile: _____
E-Mail Address: _____

CONTRACTOR'S AUTHORIZED OFFICIAL(S)

Name: _____
Title: _____
Address: _____
_____
Telephone: _____
Facsimile: _____
E-Mail Address: _____

Name: _____
Title: _____
Address: _____
_____
Telephone: _____
Facsimile: _____
E-Mail Address: _____

Notices to Contractor shall be sent to the following:

Name: _____
Title: _____
Address: _____
_____
Telephone: _____
Facsimile: _____
E-Mail Address: _____

EXHIBIT F

CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT

CONTRACTOR NAME _____ Agreement No._____

GENERAL INFORMATION:

The Contractor referenced above has entered into an Agreement with the County of Los Angeles to provide certain services to the County. The County requires the Corporation to sign this Contractor Acknowledgement and Confidentiality Agreement.

CONTRACTOR ACKNOWLEDGEMENT:

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

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

CONFIDENTIALITY AGREEMENT:

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

Contractor and Contractor's Staff hereby agrees that they will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced Agreement between Contractor and the County of Los Angeles. Contractor and Contractor's Staff agree to forward all requests for the release of any data or information received to County's Project Manager.

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

Contractor and Contractor's Staff agree to report any and all violations of this agreement by Contractor and Contractor's Staff and/or by any other person of whom Contractor and Contractor's Staff become aware.

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

SIGNATURE: _____ DATE: _____/_____/_____

PRINTED NAME: _____

POSITION: _____

Title 2 ADMINISTRATION
Chapter 2.203.010 through 2.203.090
CONTRACTOR EMPLOYEE JURY SERVICE

2.203.010 Findings.

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

2.203.020 Definitions.

The following definitions shall be applicable to this chapter:

A. “Contractor” means a person, partnership, corporation or other entity which has a contract with the county or a subcontract with a county contractor and has received or will receive an aggregate sum of $50,000 or more in any 12-month period under one or more such contracts or subcontracts.

B. “Employee” means any California resident who is a full-time employee of a contractor under the laws of California.

C. “Contract” means any agreement to provide goods to, or perform services for or on behalf of, the county but does not include:

1. A contract where the board finds that special circumstances exist that justify a waiver of the requirements of this chapter; or

2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor; or

3. A purchase made through a state or federal contract; or

4. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, or reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-3700 or a successor provision; or

5. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4.0 or a successor provision; or

6. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-2810 or a successor provision; or

7. A non-agreement purchase with a value of less than $5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section A-0300 or a successor provision; or

8. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section PP-1100 or a successor provision.

D. "Full time" means 40 hours or more worked per week, or a lesser number of hours if:

1. The lesser number is a recognized industry standard as determined by the chief administrative officer, or

2. The contractor has a long-standing practice that defines the lesser number of hours as full time.

E. "County" means the county of Los Angeles or any public entities for which the board of supervisors is the governing body. (Ord. 2002-0040 § 1, 2002: Ord. 2002-0015 § 1 (part), 2002)

2.203.030 Applicability.

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

2.203.040 Contractor Jury Service Policy.

A contractor shall have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service. (Ord. 2002-0015 § 1 (part), 2002)

2.203.050 Other Provisions.

A. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.

B. Compliance Certification. At the time of seeking a contract, a contractor shall certify to the county that it has and adheres to a policy consistent with this chapter or will have and adhere to such a policy prior to award of the contract. (Ord. 2002-0015 § 1 (part), 2002)

2.203.060 Enforcement and Remedies.

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

1. Recommend to the board of supervisors the termination of the contract; and/or,

2. Pursuant to chapter 2.202, seek the debarment of the contractor. (Ord. 2002-0015 § 1 (part), 2002)

2.203.070. Exceptions.

A. Other Laws. This chapter shall not be interpreted or applied to any contractor or to any employee in a manner inconsistent with the laws of the United States or California.

B. Collective Bargaining Agreements. This chapter shall be superseded by a collective bargaining agreement that expressly so provides.

C. Small Business. This chapter shall not be applied to any contractor that meets all of the following:

1. Has ten or fewer employees during the contract period; and,

2. Has annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, are less than $500,000; and,

3. Is not an affiliate or subsidiary of a business dominant in its field of operation.

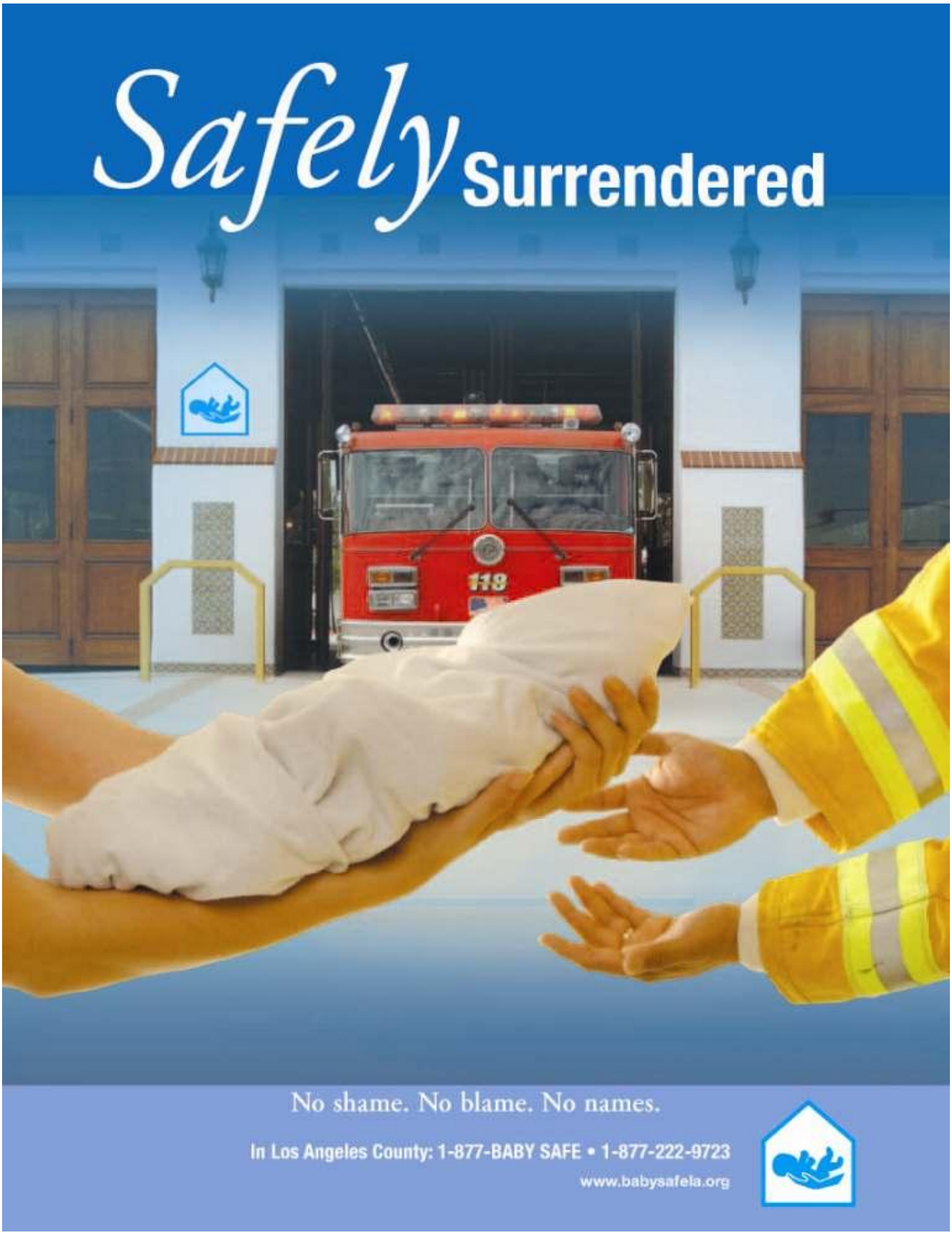
"Dominant in its field of operation" means having more than ten employees and annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, exceed $500,000.

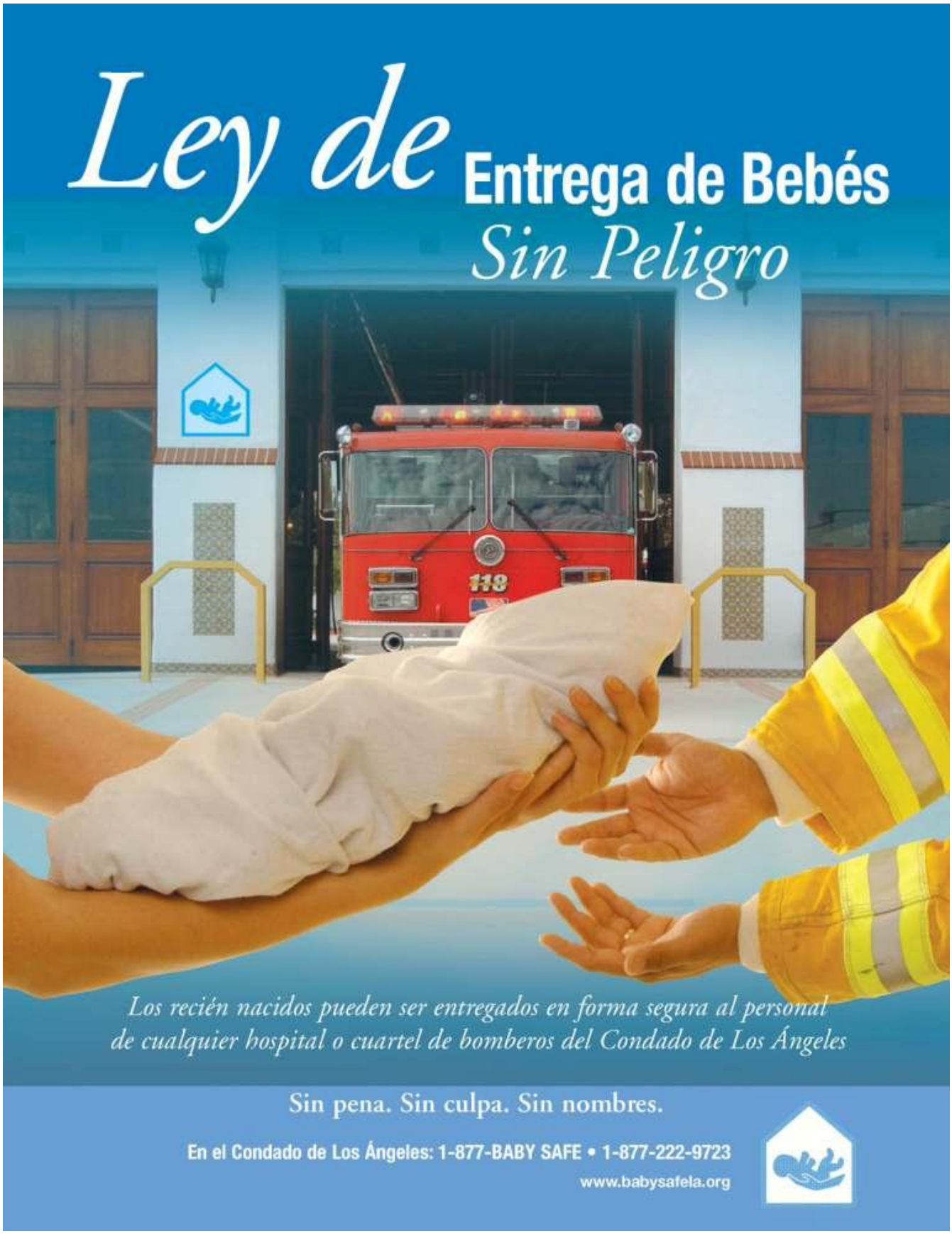
"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.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

2.203.090. Severability.

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

SAFELY SURRENDERED BABY LAW


Safely Surrendered
119
No shame. No blame. No names.
In Los Angeles County: 1-877-BABY SAFE • 1-877-222-9723
www.babysafela.org


Ley de Entrega de Bebés
Sin Peligro
Los recién nacidos pueden ser entregados en forma segura al personal
de cualquier hospital o cuartel de bomberos del Condado de Los Ángeles
Sin pena. Sin culpa. Sin nombres.
En el Condado de Los Ángeles: 1-877-BABY SAFE • 1-877-222-9723
www.babysafela.org

In Los Angeles County: 1 877 BABY SAFE 1 877 222 9723
www.babysafela.org

Safely Surrendered Baby Law

What is the Safely Surrendered Baby Law?

California's Safely Surrendered Baby Law allows parents or other persons, with lawful custody, which means anyone to whom the parent has given permission to confidentially surrender a baby. As long as the baby is three days (72 hours) of age or younger and has not been abused or neglected, the baby may be surrendered without fear of arrest or prosecution.

How does it work?

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially, and safely surrender a baby within three days (72 hours) of birth. The baby must be handed to an employee at a hospital or fire station in Los Angeles County. As long as the baby shows no sign of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, staff will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent or other surrendering adult.

What if a parent wants the baby back?

Parents who change their minds can begin the process of reclaiming their baby within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at **1-800-540-4000**.

Can only a parent bring in the baby?

No. While in most cases a parent will bring in the baby, the Law allows other people to bring in the baby if they have lawful custody.

Does the parent or surrendering adult have to call before bringing in the baby?

No. A parent or surrendering adult can bring in a baby anytime, 24 hours a day, 7 days a week, as long as the parent or surrendering adult surrenders the baby to someone who works at the hospital or fire station.

Does the parent or surrendering adult have to tell anything to the people taking the baby?

No. However, hospital or fire station personnel will ask the surrendering party to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the baby. The questionnaire includes a stamped return envelope and can be sent in at a later time.

What happens to the baby?

The baby will be examined and given medical treatment. Upon release from the hospital, social workers immediately place the baby in a safe and loving home and begin the adoption process.

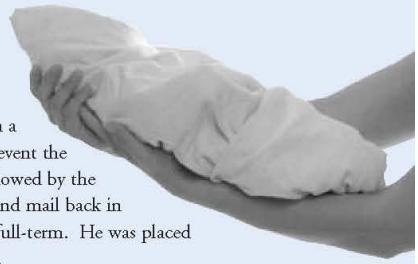
What happens to the parent or surrendering adult?

Once the parent or surrendering adult surrenders the baby to hospital or fire station personnel, they may leave at any time.

Why is California doing this?

The purpose of the **Safely Surrendered Baby Law** is to protect babies from being abandoned, hurt or killed by their parents. You may have heard tragic stories of babies left in dumpsters or public bathrooms. Their parents may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had no one or nowhere to turn for help, they abandoned their babies. Abandoning a baby is illegal and places the baby in extreme danger. Too often, it results in the baby's death. The **Safely Surrendered Baby Law** prevents this tragedy from ever happening again in California.

A baby's story



Early in the morning on April 9, 2005, a healthy baby boy was safely surrendered to nurses at Harbor-UCLA Medical Center. The woman who brought the baby to the hospital identified herself as the baby's aunt and stated the baby's mother had asked her to bring the baby to the hospital on her behalf. The aunt was given a bracelet with a number matching the anklet placed on the baby; this would provide some identification in the event the mother changed her mind about surrendering the baby and wished to reclaim the baby in the 14-day period allowed by the Law. The aunt was also provided with a medical questionnaire and said she would have the mother complete and mail back in the stamped return envelope provided. The baby was examined by medical staff and pronounced healthy and full-term. He was placed with a loving family that had been approved to adopt him by the Department of Children and Family Services.

En el Condado de Los Ángeles: 1-877-BABY SAFE • 1-877-222-9723
www.babysafela.org

Ley de Entrega de Bebés *Sin Peligro*

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

La Ley de Entrega de Bebés sin Peligro de California permite la entrega confidencial de un recién nacido por parte de sus padres u otras personas con custodia legal, es decir cualquier persona a quien los padres le hayan dado permiso. Siempre que el bebé tenga tres días (72 horas) de vida o menos, y no haya sufrido abuso ni negligencia, pueden entregar al recién nacido sin temor de ser arrestados o procesados.

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

¿Cómo funciona?

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

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

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

¿Sólo los padres podrán llevar al recién nacido?

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

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

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

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

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

¿Qué pasará con el bebé?

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

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

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

¿Por qué se está haciendo esto en California? ?

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

Historia de un bebé

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

Medical Health Screening

All potential Contractor personnel shall complete to the satisfaction of County a medical health screening to determine if the person meets the medical criteria and immunizations standards established for the prospective job classification/assignment before commencing services. The Contractor shall use the DHS Forms and medical health screening methodology provided in the Contractor package.

The medical health screening shall be performed by a physician or other licensed healthcare professional (PLHCP) authorized to perform such a physical screening, with such cost at the expense of the Contractor. If the Contractor chooses to have the DHS Employee Health Services (EHS) perform such assessments and screening, the Contractor will be billed for the services regardless if the Contractor's staff passes or fails the screening. Contractor personnel shall present a letter on Contractor letterhead authorizing personnel to obtain the screening from DHS' EHS. DHS EHS will bill the Contractor for the cost and/or deduct the amount from funds owed.

Contractor personnel shall provide DHS EHS with documentation of health screenings and evidence of the absence of communicable diseases using the County's "Health Clearance Certification, E2" form. The Certification form must be completed by the prospective Contractor personnel and their health care provider, then by the Contractor attesting verification of completion of DHS forms. The Health Clearance Certification, E2 form may be accessed on line at: http://cg.dhs.lacounty.gov/EHS_Forms/EHSBLANKFORM.htm

The Contractor must provide DHS EHS with the source documents for review within four (4) hours of a request. Source documents pertaining to the pre-employment health evaluation, Tuberculosis, Respiratory Fit Testing, and other immunizations will be maintained by the contractor. Failure to provide appropriate source documentation of health screenings/clearance will result in immediate termination of assignment and placement of Contractor's personnel in a "Do Not Send" status until compliant.

DHS Facility Staff are required to ensure the Contractor personnel receives the appropriate documents; has submitted them to the facility EHS and has obtained health clearance prior to beginning the work assignment.

No person will be allowed to work at anytime inside a DHS medical facility without appropriate documentation of health screening. In those instances where persons have no demonstrated immunity, and have refused vaccination, a waiver to that effect must be obtained and on file. Lack of immunity to certain diseases will restrict assignment locations within the hospital.

All Contractor personnel who have potential exposure to respiratory hazards and/ or aerosol transmissible disease shall provide appropriate documentation of a respiratory fit test on the same make, model, style, and size of respirator that will be used in facility. If indicated, this requirement is mandatory annually.

Medical Health Screening

Per County policy, Contractor personnel are required to comply with annual health screening. Unless provided for per contract, Contractor personnel shall have their PLHCP conduct the assessment in accordance with County policy and procedures. This documentation is the "Health Clearance Certification, E2". The workforce member will be provided with the necessary documentation for completion and submission to their PLHCP. The PLHCP will complete the documents and submit them to the Contractor, as appropriate, with the completed certification form.

Contractor personnel may be given a 30-day reminder to comply with annual health screening requirements. Contractor personnel who do not comply with annual or other health screening requirements will be given a letter indicating they have five (5) days to comply or face termination of assignment. A copy of the "letter" will be provided to the Contractor personnel's supervisor for action. Failure to provide documentation of health screening/clearance will result in immediate termination of assignment and placement in a "Do Not Send" status until compliant.

Emergency services will be provided post-exposure to Contractor personnel who have potential exposure to occupational hazards within the allowable time frames, but will be billed to the Contractor, as appropriate. Contractor personnel who are exposed to occupational hazard or incur injury while performing their duties for the County will be reported on the OSHA Log 300/301, as required by state and federal regulation and guidelines.

In the event of an occupational needlestick injury or other exposure to Contractor personnel to blood and body fluids or airborne contaminants, medical care will be provided by the DHS EHS or Emergency Room, but will be billed to the Contractor, as appropriate. Contractor personnel may go to the facility DHS EHS or the designated department for initial care within the allowable treatment time frames. Cost of initial treatment will be billed to the Contractor, as appropriate. Subsequent follow-up treatment will be conducted through the appropriate agency's medical provider or the employee's personal physician. If Contractor chooses to have the DHS EHS provide subsequent follow-up care, the Contractor will be billed accordingly.

BUSINESS ASSOCIATE AGREEMENT UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")

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

Contractor performs or provides functions, activities or services to County that require Contractor in order to provide such functions, activities or services to create, access, receive, maintain, and/or transmit information that includes or that may include Protected Health Information, as defined by the HIPAA Rules. As such, Contractor is a Business Associate, as defined by the HIPAA Rules, and is therefore subject to those provisions of the HIPAA Rules that are applicable to Business Associates.

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

This Business Associate Agreement and its provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Contractor in compliance with the HIPAA Rules.

Therefore, the parties agree as follows:

1. <u>DEFINITIONS</u>

1.1 "<u>Breach</u>" has the same meaning as the term "breach" at 45 C.F.R. § 164.402.

1.2 "<u>Business Associate</u>" has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. For the convenience of the parties, a "business associate" is a person or entity, other than a member of the workforce of covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to Protected Health Information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of another business associate. And in reference to the party to this Business Associate Agreement "Business Associate" shall mean Contractor.

1.3 "Covered Entity" has the same meaning as the term “covered entity” at 45 C.F.R. § 160.103, and in reference to the party to this Business Associate Agreement, "Covered Entity" shall mean County.

1.4 "Data Aggregation" has the same meaning as the term "data aggregation" at 45 C.F.R. § 164.501.

1.5 "De-identification" refers to the de-identification standard at 45 C.F.R. § 164.514.

1.6 "Designated Record Set" has the same meaning as the term "designated record set" at 45 C.F.R. § 164.501.

1.7 "Disclose” and “Disclosure” mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate’s internal operations or to other than its workforce. (See 45 C.F.R. § 160.103.)

1.8 "Electronic Health Record” means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff. (See 42 U.S. C. § 17921.)

1.9 “Electronic Media” has the same meaning as the term “electronic media” at 45 C.F.R. § 160.103. For the convenience of the parties, electronic media means (1) Electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media if the information being exchanged did not exist in electronic form immediately before the transmission.

1.10 "Electronic Protected Health Information” has the same meaning as the term “electronic protected health information” at 45 C.F.R. § 160.103, limited to Protected Health Information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.

1.11 "Health Care Operations" has the same meaning as the term "health care operations" at 45 C.F.R. § 164.501.

1.12 "Individual" has the same meaning as the term "individual" at 45 C.F.R. § 160.103. For the convenience of the parties, Individual means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502 (g).

1.13 "Law Enforcement Official" has the same meaning as the term "law enforcement official" at 45 C.F.R. § 164.103.

1.14 "Minimum Necessary" refers to the minimum necessary standard at 45 C.F.R. § 162.502 (b).

1.15 "Protected Health Information" has the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, and includes Protected Health Information that is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Protected Health Information.

1.16 "Required by Law" " has the same meaning as the term "required by law" at 45 C.F.R. § 164.103.

1.17 "Secretary" has the same meaning as the term "secretary" at 45 C.F.R. § 160.103

1.18 "Security Incident" has the same meaning as the term "security incident" at 45 C.F.R. § 164.304.

1.19 "Services" means, unless otherwise specified, those functions, activities, or services in the applicable underlying Agreement, Contract, Master Agreement, Work Order, or Purchase Order or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

1.20 "Subcontractor" has the same meaning as the term "subcontractor" at 45 C.F.R. § 160.103.

1.21 "Unsecured Protected Health Information" has the same meaning as the term “unsecured protected health information" at 45 C.F.R. § 164.402.

1.22 “Use” or “Uses” means, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate’s internal operations. (See 45 C.F.R § 164.103.)

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

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

2.1 Business Associate may only Use and/or Disclose Protected Health Information as necessary to perform Services, and/or as necessary to comply with the obligations of this Business Associate Agreement.

2.2 Business Associate may Use Protected Health Information for de-identification of the information if de-identification of the information is required to provide Services.

2.3 Business Associate may Use or Disclose Protected Health Information as Required by Law.

2.4 Business Associate shall make Uses and Disclosures and requests for Protected Health Information consistent with the Covered Entity’s applicable Minimum Necessary policies and procedures.

2.5 Business Associate may Use Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities.

2.6 Business Associate may Disclose Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities, provided the Disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed (i.e., the recipient) that it will be held confidentially and Used or further Disclosed only as Required by Law or for the purposes for which it was disclosed to the recipient and the recipient notifies Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.

2.7 Business Associate may provide Data Aggregation services relating to Covered Entity's Health Care Operations if such Data Aggregation services are necessary in order to provide Services.

3. PROHIBITED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

3.1 Business Associate shall not Use or Disclose Protected Health Information other than as permitted or required by this Business Associate Agreement or as Required by Law.

3.2 Business Associate shall not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Sections 2.5 and 2.6.

3.3 Business Associate shall not Use or Disclose Protected Health Information for de-identification of the information except as set forth in section 2.2.

4. OBLIGATIONS TO SAFEGUARD PROTECTED HEALTH INFORMATION

4.1 Business Associate shall implement, use, and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information other than as provided for by this Business Associate Agreement.

4.2 Business Associate shall comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for by this Business Associate Agreement.

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

5.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information not permitted by this Business Associate Agreement, any Security Incident, and/ or any Breach of Unsecured Protected Health Information as further described in Sections 5.1.1, 5.1.2, and 5.1.3.

5.1.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors not provided for by this Agreement of which Business Associate becomes aware.

5.1.2 Business Associate shall report to Covered Entity any Security Incident of which Business Associate becomes aware.

5.1.3 Business Associate shall report to Covered Entity any Breach by Business Associate, its employees, representatives, agents, workforce members, or Subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate, including a Subcontractor, as determined in accordance with the federal common law of agency.

5.2 Except as provided in Section 5.3, for any reporting required by Section 5.1, Business Associate shall provide, to the extent available, all information required by, and within the times frames specified in, Sections 5.2.1 and 5.2.2.

5.2.1 Business Associate shall make an <u>immediate telephonic report</u> upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information to **(562) 940-3335** that minimally includes:

(a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;

(b) The number of Individuals whose Protected Health Information is involved;

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

(d) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach

5.2.2 Business Associate shall make a <u>written report without unreasonable delay and in no event later than three (3) business days</u> from the date of discovery by Business Associate of the non-permitted Use or Disclosure

of Protected Health Information, Security Incident, or Breach of Unsecured Protected Health Information and to the **Chief HIPAA Privacy Officer at: Chief HIPAA Privacy Officer, Kenneth Hahn Hall of Administration, 500 West Temple Street, Suite 525, Los Angeles, California 90012, HIPAA@auditor.lacounty.gov,** that includes, to the extent possible:

(a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;

(b) The number of Individuals whose Protected Health Information is involved;

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

(d) The identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, Used, or Disclosed;

(e) Any other information necessary to conduct an assessment of whether notification to the Individual(s) under 45 C.F.R. § 164.404 is required;

(f) Any steps Business Associate believes that the Individual(s) could take to protect him or herself from potential harm from the non-permitted Use or Disclosure, Security Incident, or Breach;

(g) A brief description of what Business Associate is doing to investigate, to mitigate harm to the Individual(s), and to protect against any further similar occurrences; and

(h) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.

5.2.3 If Business Associate is not able to provide the information specified in Section 5.2.1 or 5.2.2 at the time of the required report, Business Associate shall provide such information promptly thereafter as such information becomes available.

5.3 Business Associate may delay the notification required by Section 5.1.3, if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security.

5.3.1 If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay its reporting and/or notification obligation(s) for the time period specified by the official.

5.3.2 If the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay its reporting and/or notification obligation(s) temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in Section 5.3.1 is submitted during that time.

6. WRITTEN ASSURANCES OF SUBCONTRACTORS

6.1 In accordance with 45 C.F.R. § 164.502 (e)(1)(ii) and § 164.308 (b)(2), if applicable, Business Associate shall ensure that any Subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate is made aware of its status as a Business Associate with respect to such information and that Subcontractor agrees in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.

6.2 Business Associate shall take reasonable steps to cure any material breach or violation by Subcontractor of the agreement required by Section 6.1.

6.3 If the steps required by Section 6.2 do not cure the breach or end the violation, Contractor shall terminate, if feasible, any arrangement with Subcontractor by which Subcontractor creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate.

6.4 If neither cure nor termination as set forth in Sections 6.2 and 6.3 is feasible, Business Associate shall immediately notify County.

6.5 Without limiting the requirements of Section 6.1, the agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall require Subcontractor to contemporaneously notify Covered Entity in the event of a Breach of Unsecured Protected Health Information.

6.6 Without limiting the requirements of Section 6.1, agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall include a provision requiring Subcontractor to destroy, or in the alternative to return

to Business Associate, any Protected Health Information created, received, maintained, or transmitted by Subcontractor on behalf of Business Associate so as to enable Business Associate to comply with the provisions of Section 18.4.

6.7 Business Associate shall provide to Covered Entity, at Covered Entity's request, a copy of any and all Subcontractor Business Associate Agreements required by Section 6.1.

6.8 Sections 6.1 and 6.7 are not intended by the parties to limit in any way the scope of Business Associate's obligations related to Subcontracts or Subcontracting in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

7. ACCESS TO PROTECTED HEALTH INFORMATION

7.1 To the extent Covered Entity determines that Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within two (2) business days after receipt of a request from Covered Entity, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and shall provide such Individuals(s) or other person(s) designated by Covered Entity with a copy the specified Protected Health Information, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.524.

7.2 If any Individual requests access to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within two (2) days of the receipt of the request. Whether access shall be provided or denied shall be determined by Covered Entity.

7.3 To the extent that Business Associate maintains Protected Health Information that is subject to access as set forth above in one or more Designated Record Sets electronically and if the Individual requests an electronic copy of such information, Business Associate shall provide the Individual with access to the Protected Health Information in the electronic form and format requested by the Individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual.

8. AMENDMENT OF PROTECTED HEALTH INFORMATION

8.1 To the extent Covered Entity determines that any Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within ten (10) business days after receipt of a written request from Covered Entity, make any amendments to such Protected Health Information that are requested by Covered Entity, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.526.

8.2 If any Individual requests an amendment to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request. Whether an amendment shall be granted or denied shall be determined by Covered Entity.

9. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

9.1 Business Associate shall maintain an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or Subcontractors, as is determined by Covered Entity to be necessary in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

9.1.1 Any accounting of disclosures provided by Business Associate under Section 9.1 shall include:

(a) The date of the Disclosure;

(b) The name, and address if known, of the entity or person who received the Protected Health Information;

(c) A brief description of the Protected Health Information Disclosed; and

(d) A brief statement of the purpose of the Disclosure.

9.1.2 For each Disclosure that could require an accounting under Section 9.1, Business Associate shall document the information specified in Section 9.1.1, and shall maintain the information for six (6) years from the date of the Disclosure.

9.2 Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of a written request from Covered Entity,

information collected in accordance with Section 9.1.1 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528

9.3 If any Individual requests an accounting of disclosures directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request, and shall provide the requested accounting of disclosures to the Individual(s) within 30 days. The information provided in the accounting shall be in accordance with 45 C.F.R. § 164.528.

10. COMPLIANCE WITH APPLICABLE HIPAA RULES

10.1 To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity's performance of such obligation(s).

10.2 Business Associate shall comply with all HIPAA Rules applicable to Business Associate in the performance of Services.

11. AVAILABILITY OF RECORDS

11.1 Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity’s compliance with the Privacy and Security Regulations.

11.2 Unless prohibited by the Secretary, Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

12. MITIGATION OF HARMFUL EFFECTS

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

13. BREACH NOTIFICATION TO INDIVIDUALS

13.1 Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information by

Business Associate, its employees, representatives, agents or Subcontractors, provide breach notification to the Individual in a manner that permits Covered Entity to comply with its obligations under 45 C.F.R. § 164.404.

13.1.1 Business Associate shall notify, subject to the review and approval of Covered Entity, each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of any such Breach.

13.1.2 The notification provided by Business Associate shall be written in plain language, shall be subject to review and approval by Covered Entity, and shall include, to the extent possible:

(a) A brief description of what happened, including the date of the Breach and the date of the Discovery of the Breach, if known;

(b) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

(c) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;

(d) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individual(s), and to protect against any further Breaches; and

(e) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

13.2 Covered Entity, in its sole discretion, may elect to provide the notification required by Section 13.1 and/or to establish the contact procedures described in Section 13.1.2.

13.3 Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, in complying with Subpart D of 45 C.F.R. Part 164, including but not limited to costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information; Covered Entity shall not be responsible for any costs incurred by Business Associate in providing the notification required by 13.1 or in establishing the contact procedures required by Section 13.1.2.

14. INDEMNIFICATION

14.1 Business Associate shall indemnify, defend, and hold harmless Covered Entity, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, expenses (including attorney and expert witness fees), and penalties and/or fines (including regulatory penalties and/or fines), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement, including, but not limited to, compliance and/or enforcement actions and/or activities, whether formal or informal, by the Secretary or by the Attorney General of the State of California.

14.2 Section 14.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Insurance and/or Indemnification in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

15. OBLIGATIONS OF COVERED ENTITY

15.1 Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the Use or Disclosure of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own Uses and Disclosures accordingly.

15.2 Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except to the extent that Business Associate may Use or Disclose Protected Health Information as provided in Sections 2.3, 2.5, and 2.6.

16. TERM

16.1 Unless sooner terminated as set forth in Section 17, the term of this Business Associate Agreement shall be the same as the term of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

16.2 Notwithstanding Section 16.1, Business Associate's obligations under Sections 11, 14, and 18 shall survive the termination or expiration of this Business Associate Agreement.

17. TERMINATION FOR CAUSE

17.1 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and the breaching party has not cured the breach or ended the violation within the time specified by the non-breaching party, which shall be reasonable given the nature of the breach and/or violation, the non-breaching party may terminate this Business Associate Agreement.

17.2 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and cure is not feasible, the non-breaching party may terminate this Business Associate Agreement immediately.

18. DISPOSITION OF PROTECTED HEALTH INFORMATION UPON TERMINATION OR EXPIRATION

18.1 Except as provided in Section 18.3, upon termination for any reason or expiration of this Business Associate Agreement, Business Associate shall return or, if agreed to by Covered entity, shall destroy as provided for in Section 18.2, all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that Business Associate, including any Subcontractor, still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.

18.2 Destruction for purposes of Section 18.2 and Section 6.6 shall mean that media on which the Protected Health Information is stored or recorded has been destroyed and/or electronic media have been cleared, purged, or destroyed in accordance with the use of a technology or methodology specified by the Secretary in guidance for rendering Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals.

18.3 Notwithstanding Section 18.1, in the event that return or destruction of Protected Health Information is not feasible or Business Associate determines that any such Protected Health Information is necessary for Business Associate to continue its proper management and administration

or to carry out its legal responsibilities, Business Associate may retain that Protected Health Information for which destruction or return is infeasible or that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities and shall return or destroy all other Protected Health Information.

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

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

18.4 Business Associate shall ensure that all Protected Health Information created, maintained, or received by Subcontractors is returned or, if agreed to by Covered entity, destroyed as provided for in Section 18.2.

19. AUDIT, INSPECTION, AND EXAMINATION

19.1 Covered Entity reserves the right to conduct a reasonable inspection of the facilities, systems, information systems, books, records, agreements, and policies and procedures relating to the Use or Disclosure of Protected Health Information for the purpose determining whether Business Associate is in compliance with the terms of this Business Associate Agreement and any non-compliance may be a basis for termination of this Business Associate Agreement and the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, as provided for in section 17.

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

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

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

19.5 Covered Entity's failure to detect, its detection but failure to notify Business Associate, or its detection but failure to require remediation by Business Associate of an unsatisfactory practice by Business Associate, shall not constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Business Associate Agreement or the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

19.6 Section 19.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Inspection and/or Audit and/or similar review in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

20. MISCELLANEOUS PROVISIONS

20.1 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with the terms and conditions of this Business Associate Agreement will be adequate or satisfactory to meet the business needs or legal obligations of Business Associate.

20.2 HIPAA Requirements. The Parties agree that the provisions under HIPAA Rules that are required by law to be incorporated into this Amendment are hereby incorporated into this Agreement.

20.3 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

20.4 Construction. In the event that a provision of this Business Associate Agreement is contrary to a provision of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of the applicable underlying Agreement, Contract, Master Agreement, Work

Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

20.5 Regulatory References. A reference in this Business Associate Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

20.6 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Rules.

20.7 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the HIPAA Rules and any other privacy laws governing Protected Health Information.