BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
383 KENNETH HAHN HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD
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YVONNE BRATHWAITE BURKE
ZEV YAROSLAVSKY
DON KNABE
MICHAEL D. ANTONOVICH

VIOLET VARONA-LUKENS, EXECUTIVE OFFICER
(213) 974-1411

June 3, 2005

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

Dear Supervisors:

EXTENSION OF HEARING OFFICER AND ARBITRATOR SERVICES AGREEMENTS
(ALL SUPERVISORIAL DISTRICTS AFFECTED) (3-VOTE)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve extension of agreements for some 70 consultants currently providing services as arbitrators, mediators, fact-finders, and hearing officers for the joint Civil Service Commission/Employee Relations Commission Panel for a period of one year from August 2, 2005, through July 31, 2006. Current annual costs are approximately $375,000 per anum.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On August 2, 2002, the Board approved new Agreements for hearing officer services for the Civil Service and Employee Relations Commissions, and mediation, fact-finding and/or arbitration services for the Employee Relations Commission.

These agreements were for a period of three years, with two one (1) year option years. Under the terms of the agreements, "each such option year shall be excercised individually by the Board of Supervisors." Absent action by your honorable Board, the agreements will expire August 2, 2005.

Implementation of Strategic Plan Goals

The recommended action will promote organizational effectiveness through the prompt resolution of employee relations matters, resulting in uninterrupted services to the employees and improved relationships between the County and its employees.

FISCAL IMPACT/FINANCING

The total annual cost currently associated with the Agreements for consultants is approximately $375,000. Sufficient funding for these services is included in the Department's 2005-06 Budget.

CONTRACTING PROCESS

The initial contracting process was one involving the Civil Service Commission, the Employee Relations Commission, various employee organizations, and your honorable Board. This is a simple extension of those existing agreements for one year in order to avoid either a) retroactive agreements, or b) the inability to provide the services, and there was no contracting process.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Los Angeles County Code Section 5.04.160(F) provides for the establishment and maintenance of an adequate list of impartial arbitrators, fact-finders, and mediators, by the Employee Relations Commission.

In addition, the Civil Service Commission is authorized to assign matters for hearing by hearing officers pursuant to Article IX, Section 34, of the County Charter, and Rule 4 of the Civil Service Rules.

IMPACT ON CURRENT SERVICE (OR PROJECTS)

Approval of the agreements for consultant services will ensure continued uninterrupted services, assist in reducing scheduling time for hearings and arbitrations, and attract more experienced neutrals to hear such cases, thereby enhancing the settlement of employee relations cases.

Respectfully submitted,

Violet-Varona Lukens

VIOLET VARONA-LUKENS
Executive Officer

VVL:TB:tb

Attachments

c: Chief Administrative Officer
County Counsel
Department of Human Resources
Civil Service Commission
Employee Relations Commission

AGREEMENT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

[CONSULTANT]

FOR

HEARING OFFICER,

MEDIATION, FACT-FINDING, AND

ARBITRATION SERVICES

AGREEMENT FOR HEARING OFFICER, MEDIATION, FACT-FINDING, AND ARBITRATION SERVICES

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AGREEMENT FOR HEARING OFFICER, MEDIATION, FACT-FINDING, AND ARBITRATION SERVICES

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AGREEMENT FOR HEARING OFFICER, MEDIATION, FACT-FINDING, AND ARBITRATION SERVICES

THIS AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2002, by and between THE COUNTY OF LOS ANGELES, a political subdivision of the State of California ("County"), AND _____, an individual, ("Consultant")

RECITALS

WHEREAS, pursuant to the provisions of Article IX, Section 34, of the Charter of the County of Los Angeles ("County Charter") and Rule 4 of the Civil Service Rules of said County ("Civil Service Rules"), the Civil Service Commission of the County of Los Angeles ("CSC") is authorized to provide for the conduct of appropriate hearings in connection with County employee discrimination complaints, reduction and discharge appeals and other matters assigned to CSC by the County Charter and Civil Service Rules; and

WHEREAS, CSC requires the services of a hearing officer to conduct said hearings; and

WHEREAS, said hearing officer must be an individual who possesses the qualifications and expertise to act effectively in the conduct of hearings on County employee discrimination complaints, reduction and discharge appeals, and other matters assigned to CSC by the County Charter and Civil Service Rules; and

WHEREAS, the Consultant warrants that he or she is qualified to serve as a hearing officer to conduct said hearings when appointed by CSC; and

WHEREAS, the County desires to retain the services of the Consultant to conduct said hearings on behalf of CSC; and

WHEREAS, pursuant to the provisions of Sections 5.04.160 and 5.04.240 of the County Code, the Employee Relations Commission of the County of Los Angeles ("ERCOM") is authorized to provide for the conduct of appropriate hearings in connection with the investigation and resolution of charges of unfair employee relations practices and other employee relations matters under its jurisdiction; and

WHEREAS, ERCOM requires the services of a hearing officer to conduct said hearings; and

WHEREAS, said hearing officer must be an individual who has the qualifications and expertise to act effectively in the conduct of hearings in connection with the investigation and resolution of charges of unfair employee relations practices and other employee relations matters under the jurisdiction of ERCOM;

WHEREAS, the Consultant warrants that he or she is qualified to serve as a hearing officer to conduct said hearings when appointed by ERCOM; and

WHEREAS, the County desires to retain the services of the Consultant to conduct said hearings on behalf of ERCOM; and

WHEREAS, pursuant to the provisions of Section 5.04.160(F) of the County Code, ERCOM is required to establish and maintain an adequate list of mediators, fact-finders and arbitrators under certain circumstances as provided in Sections 5.04.230 and 5.04.250 of the County Code; and

WHEREAS, ERCOM requires the services of an individual to conduct said mediation, fact-finding, and arbitration; and

WHEREAS, said mediator, fact-finder or arbitrator must be an individual who possesses the qualifications and expertise to act effectively as a third party, impartial mediator, fact-finder or arbitrator in connection with disputes arising in the administration of the County's employee relations matters; and

WHEREAS, the Consultant warrants that he or she is qualified to serve as a mediator, fact-finder and arbitrator when appointed by ERCOM; and

WHEREAS, the County desires to retain the services of the Consultant to serve as a mediator, fact-finder and arbitrator on behalf of ERCOM; and

WHEREAS, compensation for said mediation, fact-finding, expedited arbitration or standard arbitration services must be in accordance with the standard rates of compensation determined by ERCOM and approved by the Board of Supervisors of the County of Los Angeles ("Board of Supervisors") in accordance with Section 5.04.250(D) of the County Code; and

WHEREAS, California Government Code Sections 3500 through 3511 and 31000 as well as the provisions of the County Code authorize the County to contract for all of the services herein provided; and

WHEREAS, the County does not currently employ, nor can it otherwise feasibly employ, pursuant to its civil service system, persons qualified to perform any of the services herein provided;

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties hereto mutually agree as follows:

I. GENERAL PROVISIONS

A. SERVICES

1. CSC Hearing Officer Services

a) The Consultant shall act as a hearing officer for CSC in connection with the hearing of County employee discrimination complaints and reduction and discharge appeals and any other matters within the jurisdiction of CSC ("Appeals"), as set forth in this Agreement. Such services are contingent upon the availability of the Consultant to so act and the agreement by the Consultant to undertake such specific assignment or assignments in accordance with this Agreement.

b) Said services under this Agreement shall be performed as provided in this Agreement and in accordance with any and all applicable provisions of law, including but not limited to, the County Charter, County Code, Civil Service Rules, Rules of CSC, and any and all specific requirements or directives imposed by CSC including, but not limited to, completion of the specified assignment within a prescribed period of time, or similar restrictions or limitations, and limitations on the maximum compensable time or days for each assignment.

c) The Consultant shall conduct hearings as assigned by CSC and in accordance with the terms of this Agreement. At the time of assignment of an Appeal to the Consultant, CSC may limit the issues involved and the facts to be submitted for determination and recommendation by the Consultant. The Consultant shall render services only in regard to those specified issues and facts and shall not be entitled to any compensation for any services rendered outside the scope of his or her assignment as defined by CSC.

d) After conducting a hearing assigned by CSC, the Consultant shall submit a written report as provided herein, which shall meet all of the requirements set forth in this Agreement. Unless otherwise provided by this Agreement, said written report shall be submitted to CSC within thirty (30) calendar days after the completion of the hearing.

e) Said written report shall include, at a minimum, proposed findings of fact, proposed determination as to each issue specified by CSC to be heard, and recommendation as to the appropriate disposition of the controversy heard. The Consultant shall prepare and submit a report only in contested Appeals that result in a recommendation and proposed findings of fact by the Consultant as provided in this Agreement.

2. ERCOM Hearing Officer Services

a) The Consultant shall provide act as a hearing officer for ERCOM in connection with hearings on the investigation and resolution of charges of unfair employee relations practices and other related matters within the jurisdiction of ERCOM, as set forth in this Agreement. Such services are contingent upon the availability of the Consultant to so act and the agreement by the Consultant to undertake such specific assignment or assignments in accordance with this Agreement.

b) Said services under this Agreement shall be performed in accordance with any and all applicable provisions of law, including, but not limited to, the County Charter, County Code, Rules and Regulations of ERCOM ("ERCOM Rules"), and any and all specific requirements or directives imposed by ERCOM including, but not limited to, the rendering of a written report or other written findings, completion of the specified assignment within a prescribed period of time, or similar restrictions or limitations.

c) The Consultant shall conduct hearings as assigned by ERCOM and in accordance with the terms of this Agreement.

d) After conducting a hearing assigned by ERCOM, the Consultant shall prepare and submit a written report within thirty (30) calendar days of the close of the hearing as provided in the ERCOM Rules, or as otherwise directed by ERCOM. Said written report shall include, at a minimum, proposed findings of fact, conclusions of law and final order, along with reasons therefor, and any other requirements specified by ERCOM.

3. ERCOM Mediation, Fact-Finding, and Arbitration Services

a) The Consultant shall provide mediation, fact-finding, and expedited or standard arbitration services for ERCOM in connection with County employee relations disputes within the jurisdiction of ERCOM, as set forth in this Agreement. Such services are contingent upon the availability of the Consultant to so act and the agreement by the Consultant to undertake such specific assignment or assignments in accordance with this Agreement.

b) The Consultant shall perform such mediation, fact-finding, and arbitration services in accordance with any and all applicable provisions of law, including, but not limited to, the County Charter, County Code, and ERCOM Rules, and pursuant to any and all specific requirements or directives imposed by ERCOM including, but not limited to, the rendering of a written report or other written findings, completion of the specified assignment within a prescribed period of time, or similar restrictions or limitations.

c) After the conclusion of a mediation, fact-finding or arbitration assignment, the Consultant shall prepare and submit a written report as provided in the ERCOM Rules, or as otherwise directed by ERCOM.

4. Unauthorized Services

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

B. TERM OF AGREEMENT

1. Term

a) The term of this Agreement shall commence on the date of execution by the County and shall terminate no later than three (3) years from that date.

b) The County shall have the option to extend the term for up to two (2) additional one (1) year periods, for a maximum total term of five (5) years. Each such option year shall be exercised individually by the Board of Supervisors.

2. Completion of Assignments After Expiration of Agreement

a) *CSC Hearing Officer Services*

(1) The provisions of this Agreement shall continue to apply to all CSC hearings and matters assigned to the Consultant but not completed prior to the expiration date of the Agreement and the Consultant shall provide all services required by the Agreement and in accordance with all applicable terms thereof, including matters resubmitted by CSC on Appeals or hearings pending prior to the expiration of the term of the Agreement. No new Appeals or hearings will be assigned to the Consultant after the termination of the Agreement.

(2) If any Appeal or hearing is assigned to the Consultant after termination of the Agreement, the Consultant shall immediately notify CSC of such assignment and shall refrain from performing any services with regard to such assignment.

b) *ERCOM Hearing Officer, Mediation, Fact-Finding and Arbitration Services*

(1) The provisions of this Agreement shall continue to apply to all ERCOM hearings and matters assigned to the Consultant but not completed prior to the expiration date of the Agreement and the Consultant shall provide all services required by the Agreement and in accordance with all applicable terms thereof, including matters resubmitted by ERCOM on cases or matters pending prior to the expiration of the term of the Agreement. No new hearings, cases, or other matters will be assigned to the Consultant after termination of the Agreement.

(2) If any hearing, case or other matter is assigned to the Consultant after termination of the Agreement, the Consultant shall immediately notify ERCOM of such assignment and shall refrain from performing services with regard to such assignment.

3. Notice of Expiration

The Consultant shall notify the Executive Officer of CSC ("CSC Executive Officer") and the Executive Officer of ERCOM ("ERCOM Executive Officer") when this Agreement is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, the Consultant shall send written notification to the CSC Executive Officer and the ERCOM Executive Officer at the address herein provided in Section IV, Paragraph F (Notices), of this Agreement.

C. COMPENSATION

1. CSC Hearing Officer Services

a) *Hearings*

(1) Compensation to the Consultant for hearing officer services rendered for CSC pursuant to this Agreement shall be the sum of SIX HUNDRED AND FIFTY DOLLARS ($650.00) per day for each scheduled full day of hearing and THREE HUNDRED AND TWENTY-FIVE DOLLARS ($325.00) for each scheduled half-day of hearing, during which the Consultant provides services approved by CSC as provided herein.

(2) For the purpose of determining compensation for hearings assigned by CSC under this Agreement, a hearing shall consist of the taking of testimony on a regular scheduled hearing day for the purpose of resolving disputed issues of fact and law as assigned pursuant to this Agreement. A full day of hearing shall consist of over three (3) hours of services performed pursuant to this Agreement. A half-day of hearing shall consist of up to three (3) hours of services performed pursuant to this Agreement.

(3) At the time an Appeal is assigned to the Consultant, the CSC Executive Officer shall establish, in writing, the maximum number of compensable days allowable for providing hearing officer services pursuant to this Agreement. Regardless of the amount of time spent in providing hearing officer services, the Consultant shall not be paid, nor be entitled to receive, any compensation for services rendered in excess of the maximum number of compensable days so established unless the CSC Executive Officer has provided prior written authorization for such services.

(4) If a scheduled date for a hearing assigned to the Consultant is canceled, through no fault of the Consultant, with five (5) business days' notice or less, the Consultant shall be compensated for one full day of services if the hearing is scheduled for one full day, or for one-half day if the hearing is scheduled for one-half day. A canceled hearing is defined as a hearing that is not held as a result of a

withdrawal of an appeal or the nonappearance of appellant or appellant's counsel, or a hearing which has commenced but consumes less time than was originally estimated in scheduling the hearing days.

(5) The CSC Executive Officer may authorize that the Consultant may receive compensation for time spent in preparation for a hearing when, in the interests of justice, the Consultant must review specialized material of a technical, scientific or legal nature; or when the Consultant is asked to act as a substitute hearing officer in an undecided Appeal or an Appeal that has been remanded for rehearing by a court of competent jurisdiction for which the Consultant is required to review the record of the prior hearing. Said authorization must be in writing. If so authorized, the Consultant shall be entitled to receive compensation at the rate of THREE HUNDRED AND TWENTY-FIVE DOLLARS ($325.00) for each one-half day and SIX HUNDRED AND FIFTY DOLLARS ($650.00) for each full day actually spent in preparation up to the maximum number of days specifically authorized for said preparation.

b) *Reports*

(1) The Consultant is entitled to compensation for reports prepared for CSC as provided in this Agreement. The Consultant is not entitled to and shall not be compensated for any report where the hearing is canceled. For purposes of determining compensation for reports, a canceled hearing is a hearing that is not held as a result of a withdrawal of an Appeal, resolution of an Appeal by stipulation, or nonappearance of the appellant or appellant's counsel at the hearing.

(2) For each report for which the Consultant is entitled to compensation as provided herein, he or she shall be paid SIX HUNDRED AND FIFTY DOLLARS ($650.00) per day for the time period allotted for preparation of the report ("Allowable Write-Up Period") according to the following schedule:

Days of Hearing	Allowable Write-Up Period
1 – 2	1 Day
3 – 4	2 Days
5 – 7	3 Days

(3) For Appeals requiring hearings in excess of seven (7) days, if the Consultant reasonably believes that he or she requires time in addition to the Allowable Write-Up Period provided in this Agreement because of the time required or the complexity of the issues and facts, he or she shall submit a written request to the CSC Executive Officer for approval of additional days or half-days requested, with a description of the justification therefor. The CSC Executive Officer may grant or deny said request, in whole or in part, and may require additional information from the Consultant before acting upon said request. The Consultant shall be compensated for preparation of reports only to the extent of the additional time expressly approved by the CSC Executive Officer based upon the applicable one-half day or full day rate for hearing set forth in Paragraph C(1)(a) of this Section I.

2. ERCOM Hearing Officer Services

a) *Hearings*

(1) Compensation to the Consultant for hearing officer services rendered for ERCOM pursuant to this Agreement shall be the sum of SIX HUNDRED AND FIFTY DOLLARS ($650.00) per day for each day during which such services are provided by the Consultant and THREE HUNDRED AND TWENTY-FIVE DOLLARS ($325.00) for each scheduled half-day of hearing, during which the Consultant provides services as provided herein.

(2) For the purpose of determining compensation for hearings assigned by ERCOM under this Agreement, a hearing shall consist of the taking of testimony on a regular scheduled hearing day for the purpose of resolving any matters assigned by ERCOM pursuant to this Agreement. A full day of hearing shall consist of over three (3) hours of services performed pursuant to this Agreement. A half-day of hearing shall consist of up to three (3) hours of services performed pursuant to this Agreement.

(3) If a scheduled date for a hearing assigned to the Consultant is canceled, through no fault of the Consultant, with five (5) business days' notice or less, the Consultant shall be compensated for one full day of services if the hearing is scheduled for one full day, or for one-half day if the hearing is scheduled for one-half day. A canceled hearing is defined as a hearing that is not held as a result of a withdrawal of an appeal or the nonappearance of the complaining party or complaining party's counsel, or a hearing which has commenced but consumes less time than was originally estimated in scheduling the hearing days.

b) *Reports*

(1) The Consultant is entitled to compensation for reports prepared for ERCOM as provided in this Agreement. The Consultant is not entitled to and shall not be compensated for any report where the hearing is canceled. For purposes of determining compensation for reports, a canceled hearing is a hearing that is not held as a result of a withdrawal of the matter, case, or charge, resolution of the matter, case or charge by stipulation, or nonappearance of the complaining party or complaining party's counsel at the hearing.

(2) For each report for which the Consultant is entitled to compensation as provided herein, he or she shall be paid SIX HUNDRED AND FIFTY DOLLARS ($650.00) per day for preparation of the report. ERCOM shall determine the time period allotted for preparation of the report for any hearing officer assignment given to the Consultant.

3. ERCOM Mediation, Fact-Finding, and Arbitration Services

a) Any and all compensation for services of the Consultant when performing mediation, fact-finding, expedited arbitration or standard arbitration services for ERCOM hereunder shall be shared equally by the parties to such mediation, fact-finding or standard arbitration as provided Section 5.04.250(D) of the County Code.

b) Compensation for mediation, fact-finding or standard arbitration services rendered for ERCOM pursuant to this Agreement is the sum of SIX HUNDRED AND FIFTY DOLLARS ($650.00) per day for each day during which such services are provided by the Consultant.

c) The County shall promptly pay to the Consultant its equal share of the costs for any such services provided hereunder at the rate specified herein and when billed by the Consultant, but in no event shall the County pay more than the total sum of THREE HUNDRED AND TWENTY-FIVE DOLLARS ($325.00) per day.

d) The County is not obligated to make payment to the Consultant for such mediation, fact-finding, expedited arbitration or standard arbitration services performed other than that payment representing the County's equal share of the total compensation due and owing to the Consultant.

4. Unauthorized Expenses

a) Unless otherwise expressly provided for in this Agreement, compensation shall not be paid to the Consultant for legal research, hearing preparation, or review of records in connection with any assignment from CSC and/or ERCOM.

b) The Consultant shall not be entitled to any compensation or reimbursement for any travel expenses, site visitations or attendance at prehearing conferences, or any other expenses incurred in connection with any assignment from CSC and/or ERCOM, that are not expressly provided for in this Agreement.

D. ADMINISTRATION OF AGREEMENT

1. County Administration

a) The CSC Executive Officer shall be responsible for overseeing the administration of this Agreement with regard to services performed on behalf of CSC. The CSC Executive Officer is not authorized to make changes in any of the provisions, terms and conditions of this Agreement and is not authorized to further obligate the County in any respect whatsoever.

b) The ERCOM Executive Officer shall be responsible for overseeing the administration of this Agreement with regard to services performed on behalf of ERCOM. The ERCOM Executive Officer is not authorized to make changes in any of

the provisions, terms and conditions of this Agreement and is not authorized to further obligate the County in any respect whatsoever.

2. Consultant Administration

The Consultant shall be responsible for the administration of this Agreement.

E. BILLING AND PAYMENT

1. Upon proper billing by the Consultant and after completion of any assignment performed by the Consultant hereunder, payment of compensation and expenses provided in this Agreement shall be made to the Consultant.

2. The bill of the Consultant shall be in writing and shall include the contract number of this Agreement assigned by the County, the date and time spent in providing services and the nature of said services. The bill shall be submitted within forty-five (45) days of the completion of the services for which compensation is requested. The Consultant shall not submit a consolidated bill for CSC services and ERCOM services but shall bill for such services separately.

3. Notwithstanding any provision of the preceding Sub-Paragraph (E)(1), when performing hearing officer services assigned by CSC, if the Consultant fails to submit a written report within thirty (30) calendar days after completion of a hearing, or within the time expressly permitted by the CSC Executive Officer, he or she shall not be paid for any time spent preparing the report, except upon the special, written authorization of the CSC Executive Officer for good cause shown. The Consultant, however, shall remain obligated to prepare the report as soon as possible, even though he or she is not paid for its preparation; and failure to file the report within thirty (30) days after completion of the hearing shall constitute a ground upon which the County may terminate this Agreement.

4. Notwithstanding any provision of the preceding Sub-Paragraph (E)(1), when performing hearing officer services assigned by ERCOM, if the Consultant fails to submit a written report within the time expressly permitted by ERCOM, he or she shall not be paid for any time spent preparing the report, except upon the special, written authorization of ERCOM for good cause shown. The Consultant, however, shall remain obligated to prepare the report as soon as possible, even though he or she is not paid for its preparation; and failure to file the report within the time allotted by ERCOM shall constitute a ground upon which the County may terminate this Agreement.

5. CSC Hearing Officer Services

All invoices for hearing officer services performed for CSC under this Agreement shall be submitted in two (2) copies to the following address:

Civil Service Commission
525 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Attention: Executive Officer

6. ERCOM Hearing Officer, Mediation, Fact-Finding, and Arbitration Services

All invoices for hearing officer, mediation, fact-finding, and arbitration services performed for ERCOM under this Agreement shall be submitted in two (2) copies to the following address:

Employee Relations Commission
374 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Attention: Executive Officer

7. Approval of Invoices

All invoices submitted by the Consultant for payment must have the written approval of the CSC Executive Officer for services performed on behalf of CSC, or the ERCOM Executive Officer for services performed on behalf of ERCOM, 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, and in no instance will such approval take more than two (2) weeks from receipt of properly prepared invoices by the County.

II. TERMS AND CONDITIONS

A. CONSULTANT'S WARRANTY OF QUALIFICATIONS

1. The Consultant hereby warrants that he or she fulfills at least one of the following minimum qualification guidelines set by CSC and ERCOM: (a) current employment by the County as a hearing officer, mediator, fact-finder, or arbitrator; (b) membership in a nationally recognized neutral body, such as the National Academy of Arbitrators, the American Arbitration Association, or the Federal or California Mediation & Conciliation Services Panels; (c) graduation from an accredited law school, current membership in the State Bar of California, and at least three (3) years of personnel/labor practice; or (d) at least ten (10) years of experience serving as an advocate for labor or management and/or as a neutral.

2. If at any time after execution of this Agreement, the County discovers that the Consultant does not fulfill any of the aforementioned qualification guidelines, this shall be considered a material breach of the Agreement upon which the County may immediately terminate or suspend this Agreement.

B. ASSIGNMENT AND DELEGATION

1. The Consultant shall not assign his or her rights or delegate his or her duties under this Agreement, or both, either in whole or in part, without the express prior written consent of the CSC Executive Officer and the ERCOM Executive Officer. Any unapproved assignment or delegation shall be null and void.

2. Any assumption, assignment, delegation, or takeover of any of the Consultant's duties, responsibilities, obligations, or performance of same by any individual or entity other than the Consultant, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, that occurs without the express prior written approval of the Executive Officer as provided above, may result in termination of this Agreement.

C. AUTHORIZATION WARRANTY

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

D. BUDGET REDUCTIONS

1. In the event that the Board of Supervisors adopts, in any fiscal year, a County budget ("County Budget") which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County contracts, the County reserves the right to reduce its payment obligation correspondingly for that fiscal year and any subsequent fiscal year services provided by the Consultant under the Agreement. A fiscal year is the twelve (12) month period beginning July 1 and ending the following June 30.

2. The County's notice to the Consultant regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board of Supervisors' approval of such actions. The Consultant shall continue to provide all of the services set forth in the Agreement

E. COMPLIANCE WITH APPLICABLE LAW

1. The Consultant shall comply with all applicable federal, state, and local laws, rules, regulations, ordinances, and directives, and all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference.

2. The Consultant shall indemnify and hold harmless the County, and its special districts, elected officials, officers, employees and agents from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, arising from or related to any violation on the part of the Consultant or its employees, agents, or subcontractors of any such laws, rules, regulations, ordinances, or directives.

F. COMPLIANCE WITH CIVIL RIGHTS LAWS

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

G. CONFLICT OF INTEREST

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

2. The Consultant 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 Consultant warrants that he or she is not now aware of any facts that create a conflict of interest. If the Consultant hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, he or she 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.

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

Should the Consultant require additional or replacement support personnel after the effective date of this Agreement to assist the Consultant in performing the services set forth herein, the Consultant 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.

I. CONSIDERATION OF HIRING PARTICIPANTS IN GAIN/GROW PROGRAM

Should the Consultant require additional or replacement support personnel after the effective date of this Contract, the Consultant 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 Consultant's minimum qualifications for the open position. For this purpose, consideration shall mean that the Consultant will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Consultant. In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

J. CONSULTANT'S ACKNOWLEDGEMENT OF THE COUNTY'S COMMITMENT TO CHILD SUPPORT ENFORCEMENT

The Consultant acknowledges that the County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. The Consultant understands that it is the County's policy to encourage all County contractors to voluntarily post the County's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at the Consultant's place of business. The Los Angeles County Child Support Services Department's Office will supply the Consultant with the poster to be used.

K. CONSULTANT'S WARRANTY OF ADHERENCE TO THE COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

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

2. As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Consultant's duty under this Agreement to comply with all applicable provisions of law, the Consultant warrants that he or she is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 U.S.C. 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 or Spousal Support, pursuant to California Code of Civil Procedure Section 706.031 and California Family Code Section 5246(b).

L. CONTRACTOR'S RESPONSIBILITY AND DEBARMENT

1. Responsible Contractor

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

2. Chapter 2.202 of the County Code

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

3. Non-responsible Contractor

The County may debar the Consultant if the Board of Supervisors finds, in its discretion, that the Consultant has done any of the following: (1) violated any term of this Agreement, and/or any other contract with the County, (2) committed any act or omission which negatively reflects on the contractor 's quality, fitness or capacity to perform a contract with the County or any other public entity, 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.

4. Contractor Hearing Board

a) If there is evidence that the Consultant may be subject to debarment, the CSC Executive Officer and/or ERCOM Executive Officer will notify the Consultant in writing of the evidence that is the basis for the proposed debarment and will advise the Consultant of the scheduled date for a debarment hearing before the Contractor Hearing Board.

b) The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Consultant and/or Consultant's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Consultant should be debarred, and, if so, the

appropriate length of time of the debarment. If the Consultant fails to avail himself or herself of the opportunity to submit evidence to the Contractor Hearing Board, the Consultant may be deemed to have waived all rights of appeal.

c) 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.

M. DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

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

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

N. INDEPENDENT STATUS

1. This Agreement is by and between the County and the Consultant 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 Consultant. 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. The Consultant shall function as, and in all respects is, an independent contractor.

2. The Consultant 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 Consultant.

3. The Consultant understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of Workers' Compensation liability, solely employees of the Consultant and not employees of the County. The Consultant 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 Consultant pursuant to this Agreement.

4. As an independent contractor, the Consultant has no authority or power whatsoever to execute documents on behalf of CSC or ERCOM, or to bind the County to any obligations, agreements, or contracts.

O. INDEMNIFICATION

The Consultant shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the Consultant's acts and/or omissions arising from and/or relating to this Agreement.

P. INSURANCE

1. Without limiting the Consultant's indemnification of the County and during the term of this Agreement, the Consultant shall provide and maintain at his or her own expense the following programs of insurance specified in this Agreement. Such insurance shall be provided through insurer(s) satisfactory to the County and shall be primary to and not contributing with any other insurance maintained by the County. Such coverage shall be provided and maintained at the Consultant's own expense.

2. Proof of insurance and certificates and other evidence of such programs and certified copies of additional insured endorsements satisfactory to the County, including annual renewals and all changes or updates, shall be delivered to the County prior to commencement of services under this Agreement. Such evidence shall:

a) Specifically identify this Agreement;

b) Clearly evidence all coverages required in this Agreement;

c) Contain express conditions that the County be given written notice by mail at least thirty (30) days in advance of any modification, termination, or cancellation for all policies evidenced on the certificate of insurance;

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

e) Identify any deductibles or self-insured retentions for the County's approval. The County retains the right to require the Consultant to reduce or eliminate such deductibles or self-insured retentions as they apply to the County, or, require the Consultant to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

3. Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII unless otherwise approved by the County.

4. Insurance required under this Agreement shall include:

a) *Comprehensive general liability insurance* written on ISO policy form CG 00 01 or its equivalent covering the hazards of premises/operations, contractual, independent contractors, products/completed operations, broad form property damage and personal and advertising injury with a combined single limit of not less than $1 million per occurrence. If written with an annual aggregate limit, the aggregate limit shall be not less than two (2) times the required occurrence limit.

b) *Comprehensive automobile liability insurance* written on ISO policy form CA 00 01 or its equivalent with a limit of liability of not less than $1 million for each occurrence. Such insurance shall include coverage for all "owned," "hired," "non-owned" and County vehicles, or coverage for "any auto."

c) *Workers' Compensation and Employers' Liability insurance* providing workers compensation benefits, as required by the Labor Code of the State of California, including Employers' Liability, with limits of not less than $ 1 million covering all persons that the Consultant is required to cover, if any.

d) *Professional liability insurance* in an amount not less than $2 million per claim, covering liability arising from any error, omission, CSC, or negligent act by the Consultant, its officers, agents, or employees in the performance of services under this Agreement. Such insurance shall apply to liability assumed by the insured which results from an error, omission, CSC or negligent act of the insured, its officers, employees, agents or subcontractors.

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

6. The Consultant shall report to the County:

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

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

c) Any injury to a Consultant employee that occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the CSC Executive Officer and/or ERCOM Executive Officer.

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

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

8. The Consultant shall ensure that any and all subcontractors authorized by the County to perform services under this Agreement meet the insurance requirements of this Agreement by either providing evidence of insurance covering the activities of subcontractors, or providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. The County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

Q. NONEXCLUSIVITY

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

R. 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 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.

S. PROHIBITION AGAINST INDUCEMENT OR PERSUASION

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

T. PUBLIC RECORDS ACT

1. Any documents submitted by the Consultant; all information obtained in connection with the County's right to audit and inspect the Consultant's documents, books, and accounting records pursuant to Paragraph V of this Section (Record Retention and Inspection/Audit Settlement) of this Agreement, as well as those documents which were required to be submitted during the 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 are records which are exempted from disclosure by the California Government Code Section 6250 et seq. (California Public Records Act) and/or which are properly identified and marked as "trade secret," "confidential," or "proprietary."

2. 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 to court of competent jurisdiction.

U. PUBLICITY

1. The Consultant 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 Consultant's need to identify his or her services and related clients for self-sustenance, the County shall not inhibit the Consultant from publishing his or her role under this Agreement within the following conditions:

a) The Consultant shall develop all publicity material in a professional manner; and

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

2. The Consultant may, without the prior written consent of County, indicate in its proposals and sales materials that he or she has been awarded this Agreement with the County of Los Angeles, provided that the requirements of this Paragraph T shall apply.

V. QUALITY ASSURANCE PLAN

1. The CSC Executive Officer and ERCOM Executive Officer will evaluate the Consultant's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing the Consultant's compliance with all Agreement terms and conditions and performance standards. Consultant deficiencies which the CSC Executive Officer and/or ERCOM Executive Officer determine(s) are severe or

continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to the Board. The report will include improvement/corrective action measures taken by the CSC Executive Officer and/or ERCOM Executive Officer, and the Consultant.

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

W. RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

1. All documents, drafts, reports, work papers, memoranda, and other materials including duplicates thereof generated or compiled pursuant to this Agreement are the exclusive property of CSC or ERCOM, which may be used for any purpose, notwithstanding that CSC or ERCOM may choose, at its option, to leave a copy of any such materials in the possession of the Consultant for the parties' mutual convenience.

2. The Consultant shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. The Consultant shall also maintain accurate and complete employment and other records relating to its performance of this Agreement.

3. The Consultant 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 records relating to this Agreement. All such material, including, but not limited to, all financial records, timecards and other employment records, and proprietary data and information, shall be kept and maintained by the Consultant 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 Consultant 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 Consultant 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.

4. In the event that an audit of the Consultant is conducted specifically regarding this Agreement by any federal or state auditor, or by any auditor or accountant employed by the Consultant or otherwise, then the Consultant shall file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Consultant's receipt thereof, unless otherwise provided by applicable federal or state law or under this Agreement. The County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

5. Failure on the part of the Consultant to comply with any of the provisions of this Section shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement.

6. If, at any time during the term of this Agreement or within five (5) years after the expiration or termination of this Agreement, representatives of the County may conduct an audit of the Consultant 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 Consultant, then the difference shall be either: a) repaid by the Consultant 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 Consultant 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 Consultant, then the difference shall be paid to the Consultant 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.

X. SUBCONTRACTING

None of the services performed under this Agreement may be subcontracted by the Consultant without the advance written approval of the County. Any attempt by the Consultant to subcontract without the prior written consent of the County may be deemed a material breach of this Agreement upon which the County may terminate or suspend this Agreement.

Y. WARRANTY AGAINST CONTINGENT FEES

1. The Consultant 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 Consultant for the purpose of securing business.

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.

III. TERMINATION OF AGREEMENT

A. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN CHILD SUPPORT COMPLIANCE

Failure of the Consultant to maintain compliance with the requirements set forth in Section II, Paragraph J (Consultant's Warranty of Adherence to County's Child Support Compliance Program) shall constitute a default by the Consultant under this Agreement. Without limiting the rights and remedies available to the County under any other provision of this Agreement, failure to cure such default within ninety (90) days of notice by the Los Angeles County Child Support Services Department shall be grounds for termination of this Agreement pursuant to Section III, Paragraph C (Termination for Default).

B. TERMINATION FOR CONVENIENCE

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

2. After receipt of a notice of termination and except as otherwise directed by the County, the Consultant 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.

3. For a period of five (5) years after final settlement under this Agreement, the Consultant shall make available to the County, at all reasonable times, all its books, records, documents, or other evidence bearing on the costs and expenses of the Consultant under this Agreement with respect to the termination of work hereunder. All such material shall be maintained by the Consultant 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 Consultant 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.

C. TERMINATION FOR DEFAULT

1. The County may, by written notice to the Consultant, terminate the whole or any part of this Agreement, if, in the judgment of the County:

a) The Consultant has materially breached this Agreement;

b) The Consultant fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Agreement; or

c) The Consultant 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.

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

3. Except with respect to defaults of any subcontractor, the Consultant shall not be liable for any such excess costs for acquiring comparable services if his or her failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the Consultant. 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 Consultant.

4. If, after the County has given notice of termination under the provisions of this Paragraph C, it is determined by the County that the Consultant was not in default under the provisions of this Paragraph C, or that the default was excusable under the provisions of this Paragraph C, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph B (Termination for Convenience) of this Section III.

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

D. TERMINATION FOR IMPROPER CONSIDERATION

1. The County may, by written notice to the Consultant, immediately terminate the right of the Consultant to proceed under this Agreement if it is found that consideration, in any form, was offered or given by the Consultant, 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 Consultant's performance pursuant to this Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Consultant as it could pursue in the event of default by the Consultant.

2. The Consultant shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

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

E. TERMINATION FOR INSOLVENCY

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

a) *Insolvency of Consultant.* The Consultant shall be deemed to be insolvent if he or she 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 Consultant is insolvent within the meaning of the Federal Bankruptcy Code;

b) *Filing of a voluntary or involuntary petition* regarding the Consultant under the Federal Bankruptcy Code;

c) *Appointment of a Receiver or Trustee* for the Consultant; or

d) *Execution by the Consultant of a general assignment for the benefit of creditors.*

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

F. TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

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

G. TERMINATION FOR NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this Agreement, the County shall not be obligated for the Consultant's performance hereunder or by any provision of this Agreement during any of the County's future fiscal years unless and until the Board appropriates funds for this Agreement in the County 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 Consultant in writing of any such non-allocation of funds at the earliest possible date.

IV. MISCELLANEOUS PROVISIONS

A. CAPTIONS

The caption and section headings appearing herein shall not be deemed to govern, limit, modify, or in any way affect the scope, meaning or intent of the terms of this Agreement.

B. CONFIDENTIALITY

The Consultant shall maintain the confidentiality of all records obtained from the County under this Agreement in accordance with all applicable federal, state or local laws, ordinances, regulations and directives relating to confidentiality.

C. CONTRACT MODIFICATIONS AND AMENDMENTS

This Agreement constitutes the complete and exclusive statement of understanding between the parties, and supersedes all previous agreements, written and oral, and all communications between the parties relating to the subject matter of this Agreement. No change to this Agreement shall be valid unless prepared in writing and signed by the Consultant and the County.

D. GENDER

Any and references to the Consultant in this Agreement by "he," "she," and/or "it," shall be considered to apply to the Consultant, regardless of the actual gender of the Consultant.

E. GOVERNING LAW, JURISDICTION, AND VENUE

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. The Consultant 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.

F. NOTICES

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 follows:

For Consultant
Consultant name
Street address
City, State Zip Code

For CSC
Civil Service Commission
522 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Attention: Executive Officer

For ERCOM
Employee Relations Commission
374 Kenneth Hahn Hall of
Administration
500 West Temple Street
Los Angeles, California 90012

Attention: Executive Officer

Either party may change addresses by providing ten (10) days' prior written notice thereof to the other party. The CSC Executive Officer and ERCOM Executive Officer shall have the authority to issue all notices or demands required or permitted by the County under this Agreement.

G. RECYCLED BOND PAPER

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

H. 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.

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

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

CONSULTANT

By _____
Name
Title

COUNTY OF LOS ANGELES

By _____
Chairman, Board of Supervisors

ATTEST:

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

By _____

APPROVED AS TO FORM:

Lloyd W. Pellman
County Counsel

By _____
Deputy County Counsel