LOS ANGELES COUNTY

COUNTY OF LOS ANGELES
Internal Services Department

1100 North Eastern Avenue
Los Angeles, California 90063

To enrich lives through effective and caring service..

Dave Lambertson
Director

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July 6, 2005

Agenda Date: July 19, 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:

APPROVE A SERVICES AGREEMENT
FOR JOB ORDER CONTRACTING CONSULTING SERVICES
(ALL DISTRICTS - 3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and authorize the Director of Internal Services Department (ISD) or his designee to enter into a Services Agreement, substantially in conformance with Attachment 1, by and between the County of Los Angeles and The Gordian Group to provide Job Order Contracting (JOC) consulting services to assist ISD in administrating its JOC program, at a fee of 1.95 percent of the dollar amount of each project work order. This Agreement is for three (3) years with two (2) one-year renewal options. The estimated first year cost for this Agreement is $345,000.

2. Authorize the Director of ISD or his designee to approve and execute all renewal options, extensions, and change notices pursuant to the provisions of the Agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:

The recommended Services Agreement with The Gordian Group will provide ISD with professional services support needed to utilize JOC effectively and efficiently.

ISD continues to experience heavy workload demands in the areas of facilities repair, maintenance and refurbishment projects, but has insufficient in-house resources to fulfill current and anticipated County requirements. Thus, some of the required County projects are being accomplished through JOC Agreements. To assist in managing JOC, ISD has primarily contracted for the following program support:

- Technical specifications for specific items of repair and refurbishment work.
- Unit price books which provide the installed price for each item of repair and refurbishment work.
- A computer network based software program to assist in preparing, evaluating and tracking JOC work orders.

The recommended Services Agreement will provide for the continuation of these essential aspects of the JOC program.

Implementation of Strategic Plan Goals:

This action meets the County's Strategic Plan Goals No. 1 and No. 4 for Service Excellence and Fiscal Responsibility. More specifically, it aligns with these goals by providing timely facilities services, effectively managing County resources and investing in public infrastructure.

FISCAL IMPACT/FINANCING:

The Agreement provides for a tiered pricing structure based on the total dollar amount of JOC work during each fiscal year. For the first $10 million in as-needed JOC work orders, ISD will pay a fee of 1.95 percent on each work order. When the aggregate work order dollar value is between $10 million to $25 million, the fee drops to 1.5 percent for that portion of work orders. When the aggregate work order dollar value exceeds $25 million, the fee is reduced to 1.25 percent for that portion of work orders.

ISD's typical level of total JOC expenditures has been approximately $20 million annually. If this same level of business continued, the resulting JOC consulting fee under this Agreement would be $345,000.

ISD will incur JOC expenditures to the extent that they are offset through County department billings and within available appropriation. There is no unplanned net County cost impact from these transactions.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

The proposed Agreement that will commence upon execution by the Director of ISD and will continue for a period of three years with two one-year renewal options. The prices are fixed for the entire term of the contract and there are no provisions for any cost of living increases.

The recommended consultant has agreed to the County's terms and conditions. The Agreement contains all of the Board, CAO and County Counsel required provisions, including the County's Child Support Compliance Program, consideration of GAIN/GROW participants, Contractor Non-responsibility and Debarment, Contractor Employee Jury Service and Safely Surrendered Baby Law. The Consultant will not be asked to perform services exceeding the approved scope of work or contract period of performance. The Agreement has been approved as to form by County Counsel. ISD has determined that the proposed Agreement is not subject to the County's Living Wage Program.

ENVIRONMENTAL DOCUMENTATION:

The award of the Services Agreement will have no impact on the environment. Appropriate environmental assessments will be made prior to authorization of each JOC work order which will be prepared and implemented with support provided by the recommended Services Agreement.

CONTRACTING PROCESS:

A Request for Proposals (RFP) for JOC consulting services was released on April 27, 2005 by the ISD. The RFP was posted on the County's website (Attachment 2) and faxed to the four firms identified on Attachment 3 believed to be interested in providing JOC consulting services. A pre-proposal conference was held on May 17, 2005 to discuss proposal and contracting requirements. On May 26, 2005 one proposal was received, from The Gordian Group, and evaluated by an evaluation committee, consisting of representatives from ISD. The evaluation of the firm's written proposal and references resulted in a determination that The Gordian Group is highly qualified

to provide the required services. There were no protests resulting from this solicitation. Attachment 4 contains the Community Business Enterprise information on the firm. On final consideration, selection of the consultant was made without regard to gender, race, creed, color or national origin.

IMPACT ON CURRENT SERVICES (OR PROJECTS):

No staff impact will result from the award of the recommended Services Agreement, as the requested Services Agreement is intended to augment, but not replace the County workforce and to ensure our ability to respond to emergency requirements.

CONCLUSION:

Your approval of the recommendations will provide the resources necessary for ISD to provide timely facility project services to County departments and agencies. Please return one stamped copy of the approved Board letter to ISD.

Respectfully submitted,

Dave Lambertson
Director

DL:TT:iw
Attachments
c: Chief Administrative Officer
Executive Officer, Board of Supervisors

F:/JOC Consulting Services Board Letter1_ 7-19-05-final

Attachment 1

SAMPLE CONTRACT

CONTRACT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

(CONTRACTOR)
FOR

JOB ORDER CONTRACT CONSULTING SERVICES

SAMPLE CONTRACT PROVISIONS
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Sample Contract

CONTRACT BETWEEN
COUNTY OF LOS ANGELES
AND

_____

FOR
JOB ORDER CONTRACT CONSULTING SERVICES

This Contract and Exhibits made and entered into this ___ day of _____, 2005 by and between the County of Los Angeles, hereinafter referred to as County and _____, hereinafter referred to as Contractor. _____ is located at _____.

RECITALS

WHEREAS, the County may contract with private businesses for Job Order Contract Consulting Services when certain requirements are met; and

WHEREAS, the Contractor is a private firm specializing in providing Job Order Contract Consulting Services; and

WHEREAS, this Contract is therefore authorized under California Codes, Government Code Section 31000 which authorizes the Board of Supervisors, Director of Internal Services Department (ISD) to contract for special services; 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 and I are attached to and form a part of this Contract. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Contract and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Contract and then to the Exhibits according to the following priority.

Standard Exhibits:

1.1 EXHIBIT A - Statement of Work

1.2 EXHIBIT B - Pricing Schedule

1.3 EXHIBIT C - Contractor's Proposed Schedule

1.4 EXHIBIT D - Contractor's EEO Certification

1.5 EXHIBIT E - County's Administration

1.6 EXHIBIT F - Contractor's Administration

1.7 EXHIBIT G - Forms Required at the Time of Contract Execution

1.8 EXHIBIT H - Jury Service Ordinance

1.9 EXHIBIT I - Safely Surrendered Baby Law

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersedes all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to Sub-paragraph 8.4 - Change Notices and Amendments and signed by both parties.

2.0 DEFINITIONS

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

2.1 **Contract:** Agreement 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, or corporation that has entered into a contract 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 Contract operations after the Contract award.

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

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

2.6 **County Project Manager:** Person designated by County's Project Director to manage the operations under this Contract.

2.7 **Day(s):** Calendar day(s) unless otherwise specified.

2.8 **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 Contract, the Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth in the *Statement of Work, Exhibit A.*

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

4.0 TERM OF CONTRACT

4.1 The term of this Contract shall be three (3) years commencing on _____ after approval by County's Board of Supervisors and execution by County's Director of Internal Services Department (ISD) or his/her designee, unless sooner terminated or extended, in whole or in part, as provided in this Contract.

4.2 The County shall have the sole option to extend the Contract term for up to two (2) additional one-year periods and six (6) month to month extensions, for a maximum total Contract term of five (5) years and six (6) months. Each such option and extension shall be exercised at the sole discretion of the Director of Internal Services Department or his/her designee.

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

5.0 CONTRACT SUM

5.1 In each year of this Contract, the total of all amounts actually expended by County hereunder ("maximum annual expenditures") may not exceed amounts allocated to ISD by the County Board of Supervisors in approved budgets to ISD. The County has sole discretion to expend some, all, or none of such budgeted amounts. The sum of such annual expenditures for the duration of the Contract is the Contract Sum.

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 No Payment for Services Provided Following Expiration/ Termination of Contract

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

5.4 Invoices and Payments

5.4.1 The Contractor shall invoice the County 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 Contract. 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.

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

5.4.3 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.

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

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

Internal Services Department
Attn: Accounts Payable
1100 N. Eastern Ave.,
Los Angeles, CA 90063

5.4.6 **County Approval of Invoices.** All invoices submitted by the Contractor for payment must have the written approval of the County'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, and in no instance will such approval take more than two (2) weeks from receipt of properly prepared invoices by the County.

6.0 ADMINISTRATION OF CONTRACT - COUNTY

COUNTY ADMINISTRATION

A listing of all County Administration referenced in the following Sub-paragraphs are designated in *Exhibit E - County's Administration*. The County shall notify the Contractor in writing of any change in the names or addresses shown.

6.1 County's Project Director

Responsibilities of the County's Project Director include:

- ensuring that the objectives of this Contract are met;

- making changes in the terms and conditions of this Contract in accordance with Sub-paragraph 8.4, Change Notices and Amendments; and
- providing direction to Contractor in the areas relating to County policy, information requirements, and procedural requirements.

6.2 County's Project Manager

The responsibilities of the County's Project Manager include:

- meeting with 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 Contractor.

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

6.3 County's Contract Project

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

7.0 ADMINISTRATION OF CONTRACT - CONTRACTOR

7.1 Contractor's Project Manager

7.1.1 Contractor's Project Manager is designated in *Exhibit F - 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 Contractor's Project Manager shall be responsible for Contractor's day-to-day activities as related to this Contract and shall coordinate with County's Project Manager and Project Monitor on a regular basis.

7.2 Approval of Contractor's Staff

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

7.3 Contractor's Staff Identification

7.3.1 Contractor shall provide all staff assigned to this Contract with a photo identification badge in accordance with County specifications. Specifications may change at the discretion of the County and Contractor will be provided new specifications as required. The format and content of the badge is subject to the County's approval prior to the Contractor implementing the use of the badge. Contractor staff, while on duty or when entering a County facility or its grounds, shall prominently display the photo identification badge on the upper part of the body.

7.3.2 Contractor shall notify the County within one business day when staff is terminated from working on this Contract. Contractor is responsible to retrieve and immediately destroy the staff's County photo identification badge at the time of removal from the County Contract.

7.3.3 If County requests the removal of Contractor's staff, Contractor is responsible to retrieve and immediately destroy the Contractor's staff's County photo identification badge at the time of removal from working on the Contract.

7.4 Background and Security Investigations

7.4.1 At any time prior to or during term of this Contract, the County may require that all Contractor staff performing work under this Contract undergo and pass, to the satisfaction of County, a background investigation, as a condition of beginning and continuing to work under this Contract.

County shall use its discretion in determining the method of background clearance to be used, up to and including a County performed fingerprint security clearance. 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.

7.4.2 County may request that Contractor's staff be immediately removed from working on the County Contract at any time during the term of the Contract. County will not provide to Contractor or to Contractor's staff any information obtained through the County conducted background clearance.

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

7.4.4 Disqualification, if any, of Contractor staff, pursuant to this Sub-paragraph 7.4, shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

7.5 Confidentiality

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

The Contractor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Contract. The Contractor shall cause each employee performing services covered by this Contract

to sign and adhere to the *"Contractor Employee Acknowledgment and Confidentiality Agreement", Exhibit G1.*

The Contractor shall cause each non-employee performing services covered by this Contract to sign and adhere to the *"Contractor Non-Employee Acknowledgment and Confidentiality Agreement", Exhibit G2.*

8.0 STANDARD TERMS AND CONDITIONS

8.1 ASSIGNMENT AND DELEGATION

8.1.1 The Contractor shall not assign its rights or delegate its duties under this Contract, or both, either in whole or in part, without the prior written consent of the Director of Internal Services Department or his/her designee. Any unapproved assignment or delegation shall be null and void. Any payments by the ISD to any approved delegate or assignee on any claim under this Contract shall be deductible, at ISD's sole discretion, against the claims, which the Contractor may have against the County.

8.1.2 If 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 ISD's express prior written approval, may result in the termination of this Contract.

8.2 AUTHORIZATION WARRANTY

The Contractor represents and warrants that the person executing this Contract for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term,

condition, and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.

8.3 BUDGET REDUCTIONS

In the event that the County's Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County Contracts, the County reserves the right to reduce its payment obligation correspondingly for that fiscal year and any subsequent fiscal year services provided by the Contractor under the Contract. The County's notice to the Contractor regarding said reduction in payment obligation shall be provided within 30 calendar days of the Board's approval of such actions. The Contractor shall continue to provide all of the services set forth in the Contract.

8.4 CHANGE NOTICES AND AMENDMENTS

8.4.1 The County reserves the right to initiate Change Notices that **do not affect** the scope, term, Contract Sum or payments. All such changes shall be accomplished with an executed Change Notice signed by the Contractor and by the Director of Internal Services Department or his/her designee.

8.4.2 For any change which affects the scope of work, term, Contract Sum, payments, or any term or condition included under this Contract, an Amendment shall be prepared and executed by the Director of Internal Services Department or his/her designee.

8.4.3 The County's Board of Supervisors or Chief Administrative Officer or designee may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. The County reserves the right to add and/or change such provisions as required by the County's

Board of Supervisors or Chief Administrative Officer. To implement such changes, an Amendment to the Contract shall be prepared and executed by the Contractor and by the Director of Internal Services Department or his/her designee.

8.4.4 The Director of Internal Services Department may at his/her sole discretion, authorize extensions of time as defined in Paragraph 4.0 - Term of Contract. The Contractor agrees that such extensions of time shall not change any other term or condition of this Contract during the period of such extensions. To implement an extension of time, an Amendment to the Contract shall be prepared and executed by the Contractor and by the Director of Internal Services Department or his/her designee.

8.5 COMPLAINTS

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

Within ten (10) business days after Contract effective date, the Contractor shall provide the County with the Contractor's policy for receiving, investigating and responding to user complaints.

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

8.5.2 If the County requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the plan within five (5) business days.

8.5.3 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.

The Contractor shall preliminarily investigate all complaints and notify the County's Project Manager of the status of the investigation within five (5) business days of receiving the complaint.

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.

Copies of all written responses shall be sent to the County's Project Manager within three (3) business days of mailing to the complainant.

8.6 COMPLIANCE WITH APPLICABLE LAW

8.6.1 The Contractor 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 Contract are hereby incorporated herein by reference.

8.6.2 The Contractor shall indemnify and hold harmless the County 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 Contractor or its employees, agents, or subcontractors of any such laws, rules, regulations, ordinances, or directives.

8.7 COMPLIANCE WITH CIVIL RIGHTS LAWS

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

Contract. The Contractor shall comply with *Exhibit D - Contractor's EEO Certification.*

8.8 COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM

8.8.1 Jury Service Program:

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

8.8.2 Written Employee Jury Service Policy.

1. Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), 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 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 Contractor uses any subcontractor to perform services for the County under the Contract, 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 Contractor is not required to comply with the Jury Service Program when the Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Jury Service Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that Contractor demonstrate to the County's satisfaction that Contractor either continues to

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

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

8.9 CONFLICT OF INTEREST

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

8.9.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to,

identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this Sub-paragraph shall be a material breach of this Contract.

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

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

8.11 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

Should the Contractor require additional or replacement personnel after the effective date of this Contract, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor.

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

8.12 CONTRACTOR RESPONSIBILITY AND DEBARMENT

8.12.1 **Responsible Contractor**

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as

quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible Contractors.

8.12.2 **Chapter 2.202 of the County Code**

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

8.12.3 **Non-responsible Contractor**

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

8.12.4 **Contractor Hearing Board**

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.

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.

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.

8.12.5 **Subcontractors of Contractor**

These terms shall also apply to Subcontractors of County Contractors.

8.13 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.

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

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

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

or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

8.15 COUNTY'S QUALITY ASSURANCE PLAN

The County or its agent will evaluate the Contractor's performance under this Contract on not less than an annual basis. Such evaluation will include assessing the Contractor's compliance with all Contract terms and conditions and performance standards. Contractor deficiencies which the County determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate this Contract or impose other penalties as specified in this Contract.

8.16 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

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

8.16.2 If 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 Contractor by cash payment upon demand.

8.17 EMPLOYMENT ELIGIBILITY VERIFICATION

The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth

in Federal and State statutes and regulations. The Contractor shall obtain, from all employees 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.

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

8.18 FACSIMILE REPRESENTATIONS

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

8.19 FAIR LABOR STANDARDS

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the County and its agents, officers, and employees

from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

8.20 GOVERNING LAW, JURISDICTION, AND VENUE

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

8.21 INDEPENDENT CONTRACTOR STATUS

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

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

8.21.3 The Contractor understands and agrees that all persons performing work pursuant to this Contract are, for purposes

of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The

Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Contract.

8.21.4 As previously instructed in Sub-paragraph 7.5 - Confidentiality, the Contractor shall cause each employee performing services covered by this Contract to sign and adhere to the *"Contractor Employee Acknowledgment and Confidentiality Agreement", Exhibit G1.* The Contractor shall cause each non-employee performing services covered by this Contract to sign and adhere to the *"Contractor Non-Employee Acknowledgment and Confidentiality Agreement", Exhibit G2.*

8.22 INDEMNIFICATION

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

8.23 GENERAL INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the County and during the term of this Contract, the Contractor shall provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Contract. Such insurance shall be primary to and not contributing with any other

insurance or self-insurance programs maintained by the County. Such coverage shall be provided and maintained at the Contractor's own expense.

8.23.1 **Evidence of Insurance:** Certificate(s) or other evidence of coverage satisfactory to the County shall be delivered to:

Internal Services Department
1100 N. Eastern Ave.,
Los Angeles, CA 90063
Attn: Facilities Operations Services, JOC

prior to commencing services under this Contract. Such certificates or other evidence shall:

- Specifically identify this Contract;
- Clearly evidence all coverages required in this Contract;
- Contain the express condition that the County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;
- 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 Contract; and
- Identify any deductibles or self-insured retentions for the County's approval. The County retains the right to require the Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to the County, or, require the Contractor 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.

8.23.2 **Insurer Financial Ratings:** 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.

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

8.23.4 **Notification of Incidents, Claims or Suits: Contractor shall report to the County:**

- Any accident or incident relating to services performed under this Contract which involves injury or property damage which may result in the filing of a claim or lawsuit against the Contractor and/or the County. Such report shall be made in writing within 24 hours of occurrence.
- Any third party claim or lawsuit filed against the Contractor arising from or related to services performed by the Contractor under this Contract.
- Any injury to a Contractor employee that occurs on County property. This report shall be submitted on a

County "Non-employee Injury Report" to the County Contract Manager.

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

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

8.23.6 **Insurance Coverage Requirements for Subcontractors:** The Contractor shall ensure any and all subcontractors performing services under this Contract meet the insurance requirements of this Contract by either:

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

8.24 INSURANCE COVERAGE REQUIREMENTS

8.24.1 **General Liability** insurance written on ISO policy form CG 00 01 or its equivalent with limits of not less than the following:

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

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

8.24.3 **Workers' Compensation and Employers' Liability** insurance providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which the Contractor is responsible. If the Contractor's employees will be engaged in maritime employment, coverage shall provide workers' compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which the Contractor is responsible.

In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	$1 million
Disease - policy limit:	$1 million
Disease - each employee:	$1 million

8.25 LIQUIDATED DAMAGES

8.25.1 If, in the judgment of the Department Head, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the Department Head, 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. 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 Department Head, or his/her designee, in a written notice describing the reasons for said action.

8.25.2 If the Department Head determines that there are deficiencies in the performance of this Contract that the Department Head deems are correctable by the Contractor over a certain time span, the Department Head 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 Department Head may:

(a) Deduct from the Contractor's payment, pro rata, those applicable portions of the Monthly Contract Sum; and/or

(b) Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is One Hundred Dollars ($100) per day per infraction, or as specified in the *Performance Requirements Summary (PRS) Chart*, as defined in *Appendix C, Technical Exhibit 2*, hereunder, and that the Contractor shall be liable to the County for liquidated damages in said amount. Said amount shall be deducted from the County's payment to the Contractor; and/or

(c) Upon giving five (5) days notice to the Contractor for failure to correct the deficiencies, the County may 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.

8.25.3 The action noted in Sub-paragraph 8.25.2 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 Contract.

8.25.4 This Sub-paragraph shall not, in any manner, restrict or limit the County's right to damages for any breach of this Contract provided by law or as specified in the PRS or Sub-paragraph 8.25.2, and shall not, in any manner, restrict or limit the County's right to terminate this Contract as agreed to herein.

8.26 MOST FAVORED PUBLIC ENTITY

If the Contractor's prices decline, or should the Contractor at any time during the term of this Contract 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 Contract, then such lower prices shall be immediately extended to the County.

8.27 NONDISCRIMINATION AND AFFIRMATIVE ACTION

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

8.27.2 The Contractor shall certify to, and comply with, the provisions of *Exhibit D - Contractor's EEO Certification.*

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

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

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

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

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

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

8.28 NON EXCLUSIVITY

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

8.29 NOTICE OF DELAYS

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

8.30 NOTICE OF DISPUTES

The Contractor shall bring to the attention of the County Project Manager and/or County Project Director any dispute between the County and the Contractor regarding the performance of services as stated in this Contract. If the County Project Manager or County Project Director is not able to resolve the dispute, the Director of Internal Services Department or his/her designee shall resolve it.

8.31 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

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

8.32 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

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

8.33 NOTICES

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

Services Department or his/her designee shall have the authority to issue all notices or demands required or permitted by the County under this Contract.

8.34 PROHIBITION AGAINST INDUCEMENT OR PERSUASION

Notwithstanding the above, the Contractor and the County agree that, during the term of this Contract 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.

8.35 PUBLIC RECORDS ACT

8.35.1 Any documents submitted by Contractor; all information obtained in connection with the County's right to audit and inspect Contractor's documents, books, and accounting records pursuant to Sub-paragraph 8.37 - Record Retention and Inspection/Audit Settlement of this Contract; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process for this Contract, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

8.35.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned

documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential", or "proprietary", the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

8.36 PUBLICITY

8.36.1 The Contractor shall not disclose any details in connection with this Contract to any person or entity except as may 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 Contract within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; and
- During the term of this Contract, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the County's Project Director. The County shall not unreasonably withhold written consent.

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

8.37 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in

accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that 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 Contract. 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 Contractor and shall be made available to the County during the term of this Contract and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if 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.

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

8.37.2 Failure on the part of the Contractor to comply with any of the provisions of this Sub-paragraph 8.37 shall constitute a

material breach of this Contract upon which the County may terminate or suspend this Contract.

8.37.3 If, at any time during the term of this Contract or within five (5) years after the expiration or termination of this Contract, representatives of the County may conduct an audit of the Contractor regarding the work performed under this Contract, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Contractor, then the difference shall be either: a) repaid by the Contractor to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County, whether under this Contract or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Contractor, then the difference shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation for this Contract exceed the funds appropriated by the County for the purpose of this Contract.

8.38 RECYCLED BOND PAPER

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

8.39 SUBCONTRACTING

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

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

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

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

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

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

8.39.6 The County's Project Director is authorized to act for and on behalf of the County with respect to approval of any subcontract and subcontractor employees.

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

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

Internal Services Department
1100 N. Eastern Ave.,
Los Angeles, CA 90063
Attn: Facilities Operations Services, JOC

before any subcontractor employee may perform any work hereunder.

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

Failure of the Contractor to maintain compliance with the requirements set forth in Sub-paragraph 8.14 - Contractor's Warranty of Adherence to County's Child Support Compliance Program, shall constitute default under this Contract. Without limiting the rights and remedies available to the County under any other provision of this Contract, failure of Contractor to cure such default within 90 calendar days of within notice shall be grounds upon which the County may terminate this Contract pursuant to Sub-paragraph 8.42 - Termination for Default and pursue debarment of Contractor, pursuant to County Code Chapter 2.202.

8.41 TERMINATION FOR CONVENIENCE

8.41.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to 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 ten (10) days after the notice is sent.

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

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

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

8.42 TERMINATION FOR DEFAULT

8.42.1 COUNTY may, by written notice to CONSULTANT, terminate the whole or any part of this Agreement if, in the judgment of the COUNTY:

- CONSULTANT has materially breached this Agreement as elsewhere provided herein, or otherwise; or
- CONSULTANT fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required under this Agreement hereunder: or
- CONSULTANT has assigned rights or delegated his duties or subcontracted any performance of this Agreement without prior written consent by COUNTY as elsewhere provided.

8.42.2 CONSULTANT shall not be liable for any excess cost, if its failure to perform under this Agreement arises from force majeure, i.e., causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes

include, but are not necessarily limited to: acts of God or of the public enemy; acts of federal or state governments in their sovereign capacities; fires; floods; epidemics; quarantine restrictions; strikes; freight embargos, 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. If the failure to perform is caused by the default of a subconsultant, and if such default arises out of causes beyond the control of both CONSULTANT and subconsultant, and without the fault or negligence of either, CONSULTANT, shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the subconsultant were obtainable from other sources in sufficient time to permit CONSULTANT to meet the requirements. As used in this subparagraph the terms "subconsultant" and "subconsultants" mean subconsultant(s) at any tier.

8.42.3 If, after COUNTY has given notice of termination under the provisions of this Section 35.0, it is determined by the COUNTY that CONSULTANT was not in default under these provisions, or that the default was excusable under the provisions, the rights and obligations of the parties shall be the same as if the notice of termination has been issued pursuant to Section 36.0.0 (Termination for Convenience).

8.42.4 The rights and remedies of the COUNTY provided in this Section 35.0 are nonexclusive and cumulative.

8.43 TERMINATION FOR IMPROPER CONSIDERATION

8.43.1 The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Contract if it is found that consideration, in any

form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment, or extension of this Contract or the making of any determinations with respect to the Contractor's performance pursuant to this Contract. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

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

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

8.44 TERMINATION FOR INSOLVENCY

8.44.1 The County may terminate this Contract forthwith in the event of the occurrence of any of the following:

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

the Contractor under the Federal Bankruptcy Code;

- The appointment of a Receiver or Trustee for the Contractor; or
- The execution by the Contractor of a general assignment for the benefit of creditors.

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

8.45 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

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

8.46 TERMINATION FOR NON-APPROPRIATION OF FUNDS

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

8.47 VALIDITY

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

8.48 WAIVER

No waiver by the County of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Sub-paragraph 8.48 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.49 WARRANTY AGAINST CONTINGENT FEES

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

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

9.0 LICENSE AGREEMENT

Consultant hereby grants to County, and County hereby accepts from Consultant, a non-exclusive right, license, and privilege to use Consultant's JOC System and other related proprietary materials (collectively referred to as "Proprietary Information") in connection with the performance of this

Agreement in accordance with the terms and conditions set forth in this Agreement. The parties hereby agree that Proprietary Information shall include, Consultant's Construction Task Catalog® (also referred to as CTC, unit price book and UPB), Internet PROGEN® software and support documentation, training materials and other proprietary materials developed by Consultant, provided and to the extent that all such materials are clearly marked or labeled as "Proprietary" when submitted by the Consultant to the County. The parties agree that "Proprietary" markings shall include any marking commonly used to identify trade secrets, trademarks, registered trademarks and copyrights. In the event this Agreement expires or terminates as provided herein, County shall return to Consultant all Proprietary Information in County's possession with the exception of items which are required by law and County record retention policy to be retained by the County in the usual course of retention of County contract records.

The Consultant shall upon termination of the Contract return all data generated by the County during the duration of the Contract in the Consultant's possession. The form of the data will be accessible by standard database programs such as Microsoft Access.

Consultant claims that disclosure of Proprietary Information will result in irreparable harm to Consultant for which monetary damages would be an inadequate remedy. Accordingly, County agrees that no such disclosure shall knowingly be made to anyone without first receiving the written consent of Consultant. County further agrees to maintain the confidentiality of the Proprietary Information provided to the County during and after the term of this Agreement, subject to public records disclosure pursuant to state or federal law.

In the event the County is required to defend a request under the Public Records Act with regard to a request for disclosure of documents which Consultant has marked as "Proprietary", Consultant agrees to defend and

indemnify the County from all costs and expenses of such defense, including reasonable attorneys fees of the County or fees awarded by a court arising out of such a request.

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

CONTRACTOR: (Name)

By _____
Name

_____
Title

COUNTY OF LOS ANGELES

By _____
(Mayor/Chairman), Board of Supervisors

APPROVED AS TO FORM:

Raymond G. Fortiner, Jr.
County Counsel

By _____
Karen Lichtenberg
Deputy County Counsel

Attachment 2

Bid Information

Bid Number :	2005 JOC SVC
Bid Title :	Job Order Contract Consulting Services
Bid Type :	Service
Department :	Internal Services Department
Commodity :	CONSULTING SERVICES - CONSTRUCTION
Open Date :	4/27/2005
Closing Date :	5/26/2005 2:30 PM
Notice of Intent to Award :	View Detail
Bid Amount :	N/A
Bid Download :	Available
Bid Description :	The Los Angeles County Internal Services Department (ISD) is inviting proposals from qualified firms to provide Job Order Contract Consulting Services. ISD will select a successful Proposer based on the Proposer's qualifications which represent the best service to ISD. Qualification, experience requirement, scope of services and evaluation criteria are stated in the RFP. RFP package can be downloaded from Internet web site - http://camisvr.co.la.ca.us/lacobids/admin/BidAdmin/lacoaddbidfrm.asp
Amendment Date : 5/4/2005	Addendum Number 1 - Proposal Conference information
Downoad Available	Addendum Number 1 - Proposal Conference information WORD 948.22 K JOC_Addendum1.doc
Contact Name :	Harry A. Williams, Jr.
Contact Phone# :	(323) 267-2615
Contact Email :	hwilliams@isd.co.la.ca.us
Last Changed On :	4/26/2005 1:52:57 PM

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Attachment 3

NOTICE OF RELEASE OF A REQUEST FOR PROPOSALS FOR JOC ORDER CONTRACT (JOC) CONSULTING SERVICES

List of Firms

Company Name	Company Address	RFP Sent
Applied Innovative Management	7135 West Tidewell, Suite M-100 Houston, Texas 77092 Phone: (713) 690-7900 Fax: (713) 690-9988	Via Fax
RHJ -JOC	Plaza Park Business Center 7641 South Freeway Houston, Texas 77021-5934 Phone: (713) 440-7674 Fax: (713) 440-7678	Via Fax
Estimating Systems, Inc.	P.O. Box 1301 Forestdale, MA 02644 Phone: (800) 967-8572 Fax: (508) 428-3573	Via Fax
The Gordian Group	140 Bridges Road, Suite E Mauldin, SC 29662 Phone: (800) 874-2291 Fax: (864) 233-9100	Via Fax

Attachment 4

FIRM/ORGANIZATION INFORMATION AS PROVIDED BY PROPOSER
CONSTRUCTION/PROJECT MANAGEMENT SERVICES

This information was gathered for statistical purposes only. On final analysis and consideration of award selections was made without regard to gender, race, creed or color.

FIRM INFORMATION		The Gordian Group
Cultural/Ethnic Composition		(See Note Below) % of Ownership
OWNERS/PARTNERS	Black/African American	0%
	Hispanic/Latin American	0%
	Asian American	0%
	American Indian/Alaskan	0%
	All others	0%
	Women (included above)	0%
		Number
MANAGER	Black/African American	0
	Hispanic/Latin American	0
	Asian American	0
	American Indian/Alaskan	0
	All others	0
	Women (included above)	0
STAFF	Black/African American	3
	Hispanic/Latin American	7
	Asian American	1
	American Indian/Alaskan	0
	All others	36
	Women (included above)	8
TOTAL # OF EMPLOYEES		47
BUSINESS STRUCTURE		Corporation
Certified as Minority, Women,		No
Disadvantaged or Disabled		No
Veteran Business Enterprise?		No

Note: The Gordian Group, Inc. is 100% owned by all employees through an Employee Stock Ownership Plan (ESOP), a qualified retirement plan.