Health Services
LOS ANGELES COUNTY

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

17 July 7, 2015

PATRICK OGAWA
ACTING EXECUTIVE OFFICER

Los Angeles County
Board of Supervisors

Hilda L. Solis
First District

Mark Ridley-Thomas
Second District

Sheila Kuehl
Third District

Don Knabe
Fourth District

Michael D. Antonovich
Fifth District

Mitchell H. Katz, M.D.
Director

Hal F. Yee, Jr., M.D., Ph.D.
Chief Medical Officer

313 N. Figueroa Street, Suite 912
Los Angeles, CA 90012

Tel: (213) 240-8101
Fax: (213) 481-0503

www.dhs.lacounty.gov

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

www.dhs.lacounty.gov

July 07, 2015

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

Dear Supervisors:

APPROVAL OF AMENDMENT TO AGREEMENT WITH VERINFORM SYSTEMS, INC. FOR THE MEDICAL EDUCATION MANAGEMENT SYSTEM
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)

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

SUBJECT

Approval of delegated authority to the Director of Health Services to amend the Agreement with Verinform Systems, Inc. for Application Hosting Services to (a) extend the term for three years with two optional one-year extensions, increase the maximum contract sum, and update the Agreement to add terms applicable to the services being provided to County; and (b) assign and delegate the Agreement to MyEvaluations.com Inc.

IT IS RECOMMENDED THAT THE BOARD:

1. Delegate authority to the Director of Health Services (Director) or his designee to execute Amendment No. 7 to Agreement No. H-702120 with Verinform Systems, Inc. (Verinform), effective upon execution, to: (1) extend the Agreement term for the period of August 1, 2015 through July 31, 2018, for the continued use of a medical education management system, with an increase of $495,152, which includes $34,307 in pool dollars, to the maximum contract sum for the extended term; (2) assign and delegate the Agreement to MyEvaluations.com Inc. (MyEvaluations); and (3) expand the statement of

work for future system upgrades for the Department of Health Services (DHS) sponsored residency programs and acquire optional work deliverables in the form of additional software, professional services, and training, as needed.

2. Delegate authority to the Director, or his designee, to execute future amendments to exercise two additional one-year extension options through July 31, 2020, and to increase the maximum contract sum by $153,615 for each optional extension period.

3. Delegate authority to the Director, or his designee, to execute future amendments to: (1) add, delete, and/or change non-substantive terms and conditions in the Agreement, and/or make any necessary changes as required by state or Federal laws; (2) modify the statement of work to reflect County standards and needs, reduce scope, add/or remove County facilities, and/or upgrade the platform and associated software at each facility; (3) approve additional programmatic and administrative workflow changes, including modifications to DHS operational protocols reflected in the Agreement and the scope of work; and (4) expend pool dollars for optional work as described in the Agreement, with all actions subject to the review and approval by County Counsel.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Medical Education Management System (MEMS) provides institutional oversight for DHS sponsored residency programs at LAC+USC Medical Center (LAC+USC MC), Harbor-UCLA Medical Center (H-UCLA MC), and Olive View-UCLA Medical Center (OV-UCLA MC) through respective medical school affiliations with Keck School of Medicine of University of Southern California and David Geffen School of Medicine at the University of California, Los Angeles. DHS' sponsored residency programs collectively train nearly 1,500 resident physicians among over 100 programs. The MEMS supports compliance with the Accreditation Council for Graduate Medical Education's (ACGME) graduate medical education (GME) training requirements, including data collection of demographics, rotation schedules, procedures, evaluations and duty hours specific to each residency program. The MEMS also supports cost reporting for purposes of Medicare reimbursements.

Approval of the first recommendation will allow the Director to execute an Amendment, substantially similar to Exhibit I, with Verinform to extend the current Agreement that is scheduled to expire on July 31, 2015, for the continued provision of maintenance, support, and training for the MEMS currently used by DHS.

The first recommendation assigns and delegates the Agreement from Verinform to MyEvaluations. The Agreement was executed with Verinform Systems, Inc. in 2006. In 2013, Verinform Systems, Inc. began providing certain of its software via MyEvaluations, Inc., an affiliated company. During its assessment of the Agreement for extension and after discussions with Verinform, DHS understood that Verinform's updated platform and new software is being provided by MyEvaluations. An assignment and delegation to MyEvaluations is the most sensible contractual strategy, in order for the Department to realize the benefits from this MEMS platform upgrade and eventually transition all of its facilities to the upgraded platform.

Moreover, approval of the first recommendation will further expand the Agreement's statement of work to provide for optional, unanticipated deliverables, and the services necessary to upgrade the MEMS platform currently operational at OV-UCLA MC and H-UCLA MC. To minimize disruption

during DHS' critical electronic health record (EHR) implementation, the Department has elected to upgrade the legacy platform currently provided by Verinform. The platform upgrade will have a wide range of benefits, including increased mobile accessibility for system end-users. In fact, LAC+USC MC's GME programs transitioned to MyEvaluation's upgraded MEMS platform in July 2014.

Approval of the second recommendation will allow the Director, or his designee, to extend the Agreement term at DHS' discretion by exercising two (2) optional, one-year term extensions.

Approval of the third recommendation will authorize the Director, or his designee, to amend the Agreement to implement modifications to the Agreement and statement of work in accordance with the Agreement's terms and conditions, to expend pool dollars to obtain optional work in the form of professional services, training, software and hardware upgrades, and to perform administrative contractual changes, to the Agreement as required by applicable law, and as required by the Board or CEO.

Implementation of Strategic Plan Goals

The recommended actions support Goal 1, Operation Effectiveness/Fiscal Sustainability; and Goal 3, Integrated Services Delivery, of the County's Strategic Plan.

FISCAL IMPACT/FINANCING

The total contract maximum sum will be increased by $495,152, from $947,350 to $1,442,502, for the agreement period ending July 31, 2018 and increase by additional $153,615 for each optional extension period.

Funding is included in the Fiscal Year (FY) 2015-16 Adopted Budget and will be requested in future fiscal years as needed.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Board approved an Agreement with Verinform on July 5, 2006, for the provision of MEMS hosting and professional services for DHS residency programs. Subsequent amendments incorporated Board and legally required provisions, and extended the term. On July 6, 2010, the Board approved Amendment No. 3 to transfer the MEMS license, maintenance and support costs from the initial purchase order into the Agreement, accounted for related training and professional services costs, and delegated authority to the Director to extend the Agreement. The latest Amendment No. 6 extended the Agreement term through July 31, 2015. During the Amendment review process, DHS consulted Chief Executive Office's Risk Management Branch to reassess the Agreement's insurance coverage requirements. The Amendment will include standard technology errors and omissions coverage with a limit of $2 million.

The Agreement may be terminated for convenience by the County upon 30 days prior written notice.

The Agreement includes all Board of Supervisors' required provisions.

MEMS services are highly specialized and proprietary, and are not available by the County. Therefore, the Agreement is not subject to the Living Wage Program (Los Angeles County Code Chapter 2.201) and is exempt from Proposition A (Los Angeles County Code Chapter 2.121).

County Counsel has approved Exhibit I as to form. The Chief Information Officer (CIO) concurs with the Department's recommendation and a CIO Analysis is not required since this Amendment is requesting an extension to the term of the Agreement to provide ongoing maintenance and support services.

CONTRACTING PROCESS

The Internal Services Department (ISD) initially procured the MEMS under a competitively solicited Invitation for Bid. The resulting purchase order was awarded to Verinform to provide implementation, training and ongoing system maintenance.

The Board approved a sole source Agreement with Verinform in July 2006 to continue providing hosting services for the MEMS, as the maximum amount of ISD's purchasing authority for services would have otherwise been exceeded. This Amendment ensures continuity of services and maintains a stable MEMS as well as providing the County with the benefits of an upgraded platform, in alignment with the Department's strategy to minimize changes to the IT environment as Online Realtime Centralized Health Information Database continues to roll out at DHS facilities. Further, the MEMS occupies a relatively small niche market, given these systems are limited to teaching hospitals and institutions that sponsor GME programs.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommendations will ensure continued and uninterrupted access and use of the MEMS, and ensure that DHS continues to comply with accreditation requirements for all of its resident physician training programs.

Respectfully submitted,

Mitchell H. Katz, M.D.
Director

Reviewed by:

RICHARD SANCHEZ
Chief Information Officer

MHK:RS:jl

Enclosures

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

EXHIBIT I

Agreement No.: H-702120

AGREEMENT BY AND BETWEEN COUNTY OF LOS ANGELES
AND
VERINFORM SYSTEMS, INC.
FOR APPLICATION HOSTING SERVICES
FOR THE DEPARTMENT OF HEALTH SERVICES

Amendment No. 7

THIS AMENDMENT is made and entered into this _____ day of July, 2015,

By and between	COUNTY OF LOS ANGELES (hereafter "County"),
And	VERINFORM SYSTEMS, INC. (hereafter "Assignor")
And	MYEVALUATIONS.COM, INC. (hereafter “Assignee”)
	Business Address: 326 E. 65th Street, Suite 234 New York, NY 10065

WHEREAS, on July 5, 2006, the County and Assignor entered into that certain Agreement entitled “Agreement by and Between County of Los Angeles and Verinform Systems, Inc. for Application Hosting Services for the Department of Health Services” further identified as Agreement No.: H-702120, and any Amendments and/or Administrative Amendments (all hereafter referred to as “Agreement”) and,

WHEREAS, Agreement, Paragraph 10, ASSIGNMENT BY CONTRACTOR, prohibits Assignor from delegating its responsibilities or assigning its rights under the Agreement without prior written consent of County; and

WHEREAS, it is the desire of the parties hereto to delegate the duties and assign the rights under Agreement, from Assignor to Assignee; and

WHEREAS, it is the intent of the parties hereto to amend Agreement to extend its term, to expand the statement of work, to increase the Agreement amount by $495,152, not to exceed a total contract cost of $1,442,502, to update certain terms and conditions to the Agreement, and to provide for the other changes set forth herein; and

WHEREAS, Agreement provides that changes in accordance to Paragraph 7, CHANGE NOTICES AND AMENDMENTS, Sub-paragraph 7.3 may be made in the form of an Amendment which is formally approved and executed by the parties; and

WHEREAS, Contractor warrants that it possesses the competence, expertise and personnel necessary to provide services consistent with the requirements of Agreement and consistent with the professional standard of care for these services;

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. This Amendment shall commence upon execution by all parties.

2. Effective (date) all rights and responsibilities of Assignor under Agreement, past, present and future, have been assigned and delegated to Assignee.

3. County hereby consents to such assignment and delegation under its delegated authority approved by the County's Board of Supervisors on July __, 2015.

4. Assignor and Assignee have heretofore separately prorated between themselves, to the extent necessary, any monthly payment due and paid under this Agreement prior to execution of this Amendment.

5. Effective (date), the purpose of this Amendment shall be interpreted according to the following statement of purpose: It is intended to effectuate and implement the acquisition of Assignor to Assignee, as requested by these entities, whereby Assignor ceased to exist as a separate entity. County consents to these actions with the understanding, as set forth herein, that the quantity and quality of services previously provided by Assignor will not be diminished. Further, that Assignee will be fiscally responsible for all of Assignor's obligations, past, present and future. In particular, and without in any way limiting the scope for the financial obligations assumed, Assignee understands and agrees that it is entirely responsible for any and all audit exceptions applied at any time against the previous entity, Assignor; through any of its agreements with County or any department thereof, whether assessed by federal, state, or County audit (s). The parties agree that all applicable review and dispute resolution procedures under the Agreement shall apply.

6. Wherever the Agreement refers to Verinform Systems, Inc. as "Contractor" it shall now become MyEvaluations.com, Inc. as Contractor, unless otherwise stated. The title and name of the Agreement shall be changed from "Agreement by and between County of Los Angeles and Verinform Systems, Inc. for Application Hosting Services for the Department of Health Services" to "Agreement by and between County of Los Angeles and MyEvaluations.com, Inc. for the Residency Management Software System & Services."

7. Agreement, Recitals, Third Paragraph, shall be amended to delete the parenthetical "(the "System")."

8. Agreement, Paragraph 1, APPLICABLE DOCUMENTS AND DEFINITIONS, Sub-paragraph 1.4, Definitions, Number 1.4.18, Services, is deleted in its entirety and replaced as follows:

"1.4.18 Services:

Collectively, all functions, responsibilities, tasks, subtasks, Deliverables, goods, and other services: (a) identified in Exhibit A-1 – Statement of Work, Attachments and Exhibits; (b) identified in this Agreement as being Contractor's responsibility; and (c) otherwise necessary to comply with the terms of this Agreement. Without increasing the scope of the Services, if any component task, subtask, service, or function is: (i) an inherent or necessary part of the Services defined in subparts (a), (b), or (c) of this Sub-paragraph; or (ii) a customary part of the Services defined in subparts (a), (b), or (c) of this Sub-paragraph, and not in conflict with Contractor's established methods of providing services; and, as to a service(s) within either subpart (i) and (ii) of this sentence above, is not specifically described in this Agreement, then such service or function shall be deemed to be part of the Services. Any hardware and/or software provided to County by Contractor pursuant to this Agreement shall be deemed part of the Services."

9. Agreement, Paragraph 1, APPLICABLE DOCUMENTS AND DEFINITIONS, Sub-paragraph 1.4, Definitions, Number 1.4.19, Software, is deleted in its entirety and replaced as follows:

"1.4.19 Software:

Individually each, and collectively all, of the computer programs provided by Contractor under this Agreement (including Third Party Software), including as to each such program, the processes and routines used in the processing of data, the object code, Interfaces to be provided hereunder by Contractor, and revisions, updates, and any and all programs otherwise provided by Contractor under this Agreement. All Software and the components thereof shall be release versions, and shall not be test versions (e.g., alpha or beta test version), unless otherwise agreed to in writing by County. Contractor markets and provides Software using the brand names Verinform, VerinformRM, and MyEvaluations.com, each of which is a separate suite of Software. Any reference to such brand names in the Agreement shall mean the Software applicable to the suite so referenced."

10. Agreement is modified to add Paragraph 1, APPLICABLE DOCUMENTS AND DEFINITIONS, Sub-paragraph 1.4, Definitions, Number 1.4.25, New Software, as follows:

"1.4.25 New Software:

Any function or module that is (i) not included in the Software marketed by Contractor as of the Effective Date of the Agreement, (ii) not related to the primary function for which the Software is used by County, and (iii) not otherwise to be provided to County under this Agreement as a revision to the Software, which Contractor may provide upon County's request therefor in the form of Optional Work in accordance with Sub-paragraph 4.6 (Optional Work). Additional Interfaces shall be deemed New Software."

11. Agreement is modified to add Paragraph 1, APPLICABLE DOCUMENTS AND DEFINITIONS, Sub-paragraph 1.4, Definitions, Number 1.4.26, Optional Work, as follows:

"1.4.26 Optional Work:

New Software and/or Professional Services, which may be provided by Contractor to County upon County's request and approval in accordance with Sub-paragraph 4.6 (Optional Work)."

12. Agreement is modified to add Paragraph 1, APPLICABLE DOCUMENTS AND DEFINITIONS, Sub-paragraph 1.4, Definitions, Number 1.4.27, Pool Dollars, as follows:

"1.4.27 Pool Dollars:

Absent an Amendment in accordance with Paragraph 7.0 (Change Notices and Amendments), the maximum amount allocated under this Agreement for the provision by Contractor of Optional Work, including New Software and/or Professional Services, approved by County in accordance with the terms of this Agreement."

13. Agreement is modified to add Paragraph 1, APPLICABLE DOCUMENTS AND DEFINITIONS, Sub-paragraph 1.4, Definitions, Number 1.4.28, Professional Services, as follows:

"1.4.28 Professional Services:

Services, including but not limited to, consulting services, additional training and/or customizations, which Contractor

may provide upon County's request therefore in the form of Optional Work in accordance with Sub-paragraph 4.4 (Optional Work)."

14. Agreement is modified to add Paragraph 1, APPLICABLE DOCUMENTS AND DEFINITIONS, Sub-paragraph 1.4, Definitions, Number 1.4.29, System, as follows:

"1.4.29 System or MEMS:

The applicable Software, and Services, including all components and Documentation, collectively comprising the residency management system, as specified in the Agreement."

15. Agreement is modified to add Paragraph 1, APPLICABLE DOCUMENTS AND DEFINITIONS, Sub-paragraph 1.4, Definitions, Number 1.4.30, County Data, as follows:

"1.4.30 County Data:

All of the County confidential information, data, records, and information of County to which Contractor has access, or otherwise provided to Contractor under this Agreement, including any of the foregoing input into or used with the Software."

16. Agreement is modified to add Paragraph 1, APPLICABLE DOCUMENTS AND DEFINITIONS, Sub-paragraph 1.4, Definitions, Number 1.4.31, Interfaces, as follows:

"1.4.31 Interfaces:

Either a computer program developed by, or licensed to, County or Contractor to (a) translate or convert data from a County or Contractor format into another format used at County as a standard format; or (b) translate or convert data in a format used by County or a third-party to a format supported at County or vice versa."

17. Agreement is modified to add Paragraph 4, WORK, Sub-paragraph 4.4, Optional Work, as follows:

"4.4 <u>Optional Work.</u>

Upon County's written request and mutual approval pursuant to the terms of this Agreement, Contractor shall provide Optional Work, including New Software and Professional Services, in accordance

with this Sub-paragraph at the applicable pricing terms set forth in Exhibit B-1 – Pricing Schedule.

4.4.1 New Software.

Upon County's written request, Contractor shall provide to County New Software as part of Optional Work using Pool Dollars, in accordance with any applicable Change Notice. Any enhancements and/or modifications to the Software resulting from New Software shall be incorporated into, and become part of, the Software.

All New Software, once approved in writing by County, shall become part of the Software, and shall be subject to the terms and conditions of this Agreement. Such New Software shall not cause an increase to the Contract Sum under this Agreement.

4.4.2 Professional Services.

Upon County's written request, Contractor shall provide to County Professional Services as part of Optional Work using Pool Dollars, including consulting services and/or additional training, in accordance with any applicable Change Notice. Specifically, County may from time to time, during the term of this Agreement, submit to Contractor for Contractor's review written requests for Professional Services using Pool Dollars, including consulting services and/or additional training, for services not included in the Services and/or Deliverables. County may require that Professional Services be provided on a (1) fixed fee basis, (2) not to exceed basis, (3) time and materials basis, or (4) a combination of the above. In response to County's request, Contractor shall submit to County for approval a scope of work describing the particular Professional Services and providing a response consistent with the payment method required by County to provide such Professional Services, calculated based on the fixed hourly rate and other pricing terms set forth in Exhibit B-1 – Pricing Schedule and elsewhere in the Agreement. County and Contractor shall agree on the Change Notice developed using the scope of work, which shall at a minimum include the tasks and deliverables to be performed, acceptance tests, if any, as applicable, and the pricing for such Professional Services. Any enhancements and/or modifications to the Software resulting from Professional Services shall be incorporated into, and become part of, the Software. Any Professional Services that are accepted and approved in writing by County

shall become a part of the Services, and any products of Professional Services, once accepted and approved in writing by the County, shall become part of the System, and shall be subject to the terms and conditions of this Agreement. Such Professional Services shall not cause an increase in the System Maintenance and Support Fees under this Agreement.

4.4.3 Interfaces.

Upon County's written request, Contractor shall provide to County Interfaces as Optional Work using Pool Dollars in accordance with any applicable Change Notice. County and Contractor shall agree on the Change Notice developed using a scope of work developed by the parties, which shall at a minimum include the tasks and deliverables to be performed, acceptance tests, if any, and the pricing for such Interface. Contractor shall be responsible for developing and delivering the Interface. Interfaces shall include but not be limited to Interfaces to third party software and hardware. Any Interfaces that are accepted and approved in writing by County shall become a part of the Software and the System, and shall be subject to the terms and conditions of this Agreement.

Contractor acknowledges and agrees that County may interface, integrate, and use the Software with other systems owned or licensed by or for County or a third party, so as to permit those systems to interoperate, whether by use of calls, exchange of data, link editing or otherwise. Contractor shall not obtain any ownership interest in those other systems merely because they were interfaced, integrated, or used with any Software. "

18. Agreement, Paragraph 5, TERM, is deleted in its entirety and replaced as follows:

"5. TERM.

5.1 The term of this Agreement shall commence July 5, 2006 and shall continue in full force and effect through July 31, 2018.

5.2 The County shall have the sole option to extend this Agreement term for up to two (2) additional one-year periods. Each such option and extension shall be exercised at the sole discretion of the Director or his/her designee as authorized by the Board of Supervisors.

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

5.4 The Contractor shall notify DHS when this Agreement is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, the Contractor shall send written notification to the DHS at the address herein provided in Paragraph 2.0 (Administration of Agreement – County)."

19. Agreement, Paragraph 7, CHANGE NOTICES AND AMENDMENTS, Sub-paragraph 7.2, is deleted in its entirety and replaced as follows:

"7.2 For any change which is clerical or administrative in nature and/or does not affect any term or condition of this Agreement, a written change notice ("Change Notice") shall be prepared and executed by the Director or designee. For any change which requires Contractor to incur any additional costs or expenses using Pool Dollars, a written Change Notice shall be prepared and executed by the Director or designee. For any Optional Work requested by County, following agreement on the Optional Work, a Change Notice shall be prepared and executed by each of: (a) the Director or designee, and (b) Contractor's authorized representative(s). County is specifically authorized to execute Change Notices for expenditure of Pool Dollars for acquisition of Optional Work under the Agreement. Any requests for the expenditure of Pool Dollars must be approved in writing by the Director or designee."

20. Agreement, Paragraph 8, CONTRACT SUM, Sub-paragraph 8.1, General, is deleted in its entirety and replaced as follows:

"8.1 <u>General.</u>

The "Contract Sum" under this Agreement shall be the total monetary amount payable by County to Contractor for supplying all the Tasks, subtasks, Deliverables, goods, Software, Third Party Software, Services and other work requested and specified under this Agreement. All work completed by Contractor must be approved in writing by County. If County does not approve work in writing, no payment shall be due to Contractor for that work. The total maximum Contract Sum, including all applicable taxes and Pool Dollars, under this Agreement shall not exceed One Million, Four Hundred Forty Two Thousand, Five Hundred and Two Dollars ($1,442,502) over the term of this Agreement. In the event the County extends the

Agreement as set forth in Subparagraph 5.2, the Contract Sum shall be increased by up to Three Hundred Seven, Two Hundred and Thirty Dollars ($307,230) for the period August 1, 2018 through July 31, 2020 for a total Contract Sum of One Million, Seven Hundred and Forty Nine Thousand, Seven Hundred and Thirty Two Dollars ($1,749,732).

Notwithstanding any other provision of this Paragraph 8, Contractor shall fully perform and complete all work required of Contractor by this Agreement in exchange for the amounts to be paid to Contractor as set forth in this Agreement."

21. Agreement, Paragraph 9, INVOICES AND PAYMENTS, Sub-paragraph 9.1, Invoice Submission, is deleted in its entirety and replaced as follows:

"9.1 Invoice Submission.

The Contractor shall invoice the County only for providing the Tasks, Deliverables, goods, Services, and other work specified in Exhibit A-1 – Statement of Work and elsewhere hereunder. The Contractor shall prepare invoices, which shall include the charges owed to the Contractor by the County under the terms of this Agreement. The Contractor's payments shall be as provided in Exhibit B-1 – 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.

Contractor shall invoice the fees due and payable for the first eleven (11) month period of each Payment Year (as defined in Exhibit B-1 - Pricing Schedule at the beginning of each Payment Year. Contractor shall invoice the fees due and payable for the twelfth month of each Payment Year in arrears at the end of each Payment Year and such fees shall be subject to the reconciliation for Service Credits as more fully described in Attachment A.2 – Service Levels and Performance Standards to Exhibit A-1 – Statement of Work and payable as set forth therein. Contractor shall invoice the fees due and payable for any Change Notice in accordance with the applicable Statement of Work, or monthly in arrears after County's written approval of the Optional Work.

All invoices under this Agreement shall be submitted to the County's Project Director and County's Project Manager for approval."

22. Agreement, Paragraph 9, INVOICES AND PAYMENTS, Sub-paragraph 9.6, Downtime Credits, is deleted in its entirety.

23. Agreement, Paragraph 13, INDEMNIFICATION, INSURANCE, AND COVERAGE, Sub-paragraph 13.3, Insurance Coverage, Clause 13.3.4, Unique Insurance Coverage, is deleted in its entirety and replaced as follows:

"13.3.4 **Professional Liability/Errors and Omissions**
Insurance covering Contractor's liability arising from or related to this Agreement, with limits of not less than $1 million per claim and $2 million aggregate. Further, Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Agreement's expiration, termination or cancellation."

24. Agreement is modified to add Paragraph 13, INDEMNIFICATION, INSURANCE, AND COVERAGE, Sub-paragraph 13.3, Insurance Coverage, Clause 13.3.5:

"13.3.5 **Technology Errors & Omissions insurance**, which includes coverage for liabilities arising from errors, omissions, or negligent acts in rendering or failure to render computer or information technology services and technology products, and for violation of software copyright, with limits of not less than $2 million per occurrence. For the purposes of this section, the term "technology services" means (1) systems analysis, (2) systems programming, (3) data processing, (4) systems integration, (5) outsourcing including outsourcing development and design, (6) systems design, consulting, development and modification, (7) training services relating to computer software or hardware, (8) management, repair and maintenance of computer products, networks and systems, (9) marketing, selling, servicing, distributing, installing and maintaining computer hardware or software, (10) data entry, modification, verification, maintenance, storage, retrieval or preparation of data output, and any other services provided by the Contractor."

25. Agreement, Paragraph 27, TERMINATION FOR IMPROPER CONSIDERATION, is deleted in its entirety and replaced as follows:

"27. <u>TERMINATION FOR IMPROPER CONSIDERATION.</u>

27.1 The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Agreement or securing

favorable treatment with respect to the award, amendment, or extension of this Agreement or the making of any determinations with respect to the Contractor's performance pursuant to this Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

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

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

26. Agreement, Paragraph 28, TERMINATION FOR CONVENIENCE, Sub-paragraph 28.2 is deleted in its entirety and replaced as follows:

"28.2 Effect of Termination.

28.2.1 In the event County terminates this Agreement in whole or in part as provided hereunder or upon the expiration of the Agreement, as applicable, then, unless otherwise specified by County in writing:

1. Contractor shall continue the performance of this Agreement to the extent not terminated.

2. Contractor shall cease to perform the Services being terminated on the date and to the extent specified in such notice and provide to County all completed Services and Services in progress, in a media reasonably requested by County.

3. County will pay to Contractor all sums due and payable to Contractor for Services properly performed through the effective date of such expiration or termination (prorated as appropriate).

4. Contractor shall return to County all monies paid by County, yet unearned by Contractor, including any prepaid fees described in Exhibit B-1 – Pricing Schedule, if applicable, and any Service Level Credits, as defined in Attachment A.2 – Service Levels and

Performance Standards to Exhibit A-1 – Statement of Work due to County.

5. Contractor shall promptly return to County any and all of the County's Confidential Information, as defined below, that relates to the portion of the Agreement or Services terminated by County, including all County Data, in a media reasonably requested by County.

28.2.2 Expiration or termination of this Agreement for any reason will not release either party from any liabilities or obligations set forth in this Agreement which (i) the parties have expressly agreed in writing will survive any such expiration or termination, or (ii) remain to be performed or by their nature would be intended to be applicable following any such expiration or termination.

28.2.3 Contractor understands and agrees that County has obligations that it cannot satisfy without use of the System provided to County hereunder or an equivalent system, and that a failure to satisfy such obligations could result in irreparable damage to County and the entities it serves. Therefore, Contractor agrees that in the event of any expiration or termination of this Agreement, Contractor shall fully cooperate with County in the transition of County to a new system, toward the end that there be no interruption of County's day to day operations due to the unavailability of the System during such transition, as provided in Paragraph 72 (Termination Transition Services).

28.2.4 Contractor shall promptly return to County all records and information including, but not limited to, billing and sensitive financial information, County records, data and information, personal data, health information, any information relating to County's customers, users, patients, partners, or personnel, and any other data, records and information received, obtained and/or produced under the provisions of this Agreement (collectively, "County Confidential Information"), including all of the County data, records, and information of County to which Contractor has access, or otherwise provided to Contractor under this Agreement that relate to that portion of the Agreement and Services terminated by County."

27. Agreement, Paragraph 37, CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS, is deleted in its entirety and replaced as follows:

"37. CONSIDERATION OF HIRING GAIN/GROW PARTICIPANTS.

37.1 Should the Contractor require additional or replacement personnel after the effective date of this Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. 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. Contractors shall report all job openings with job requirements to: GAINGROW@dpss.lacounty.gov to obtain a list of qualified GAIN/GROW job candidates.

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

28. Agreement, Paragraph 48, CONTRACTOR'S EXCLUSION FROM PARTICIPATING IN A FEDERALLY FUNDED PROGRAM, is deleted in its entirety and replaced as follows:

"48. CONTRACTOR'S EXCLUSION FROM PARTICIPATING IN A FEDERALLY FUNDED PROGRAM.

48.1 Contractor hereby warrants that neither it nor any of its Subcontractors' owners, officers, partners, directors, other principals, employees or independent contractors is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part, (which includes Medicare, Medi-Cal and Healthy Families) and that Contractor will notify Director within ten (10) calendar days in writing of: (1) any event that would require Contractor or any of the aforementioned parties' mandatory exclusion from participation in a Federally funded health care program; and (2) any exclusionary or suspension action taken by any agency of the Federal or State governments against any of the aforementioned parties' barring these parties from participating in a Federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

48.2 Contractor shall indemnify and hold County harmless against any and all loss or damage County may suffer arising from any exclusion or suspension of Contractor or its Subcontractors' owners, officers, partners, directors, other principals, employees or independent contractors from such participation in a Federally funded health care program.

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

29. Agreement, Paragraph 63, OWNERSHIP OF SOFTWARE AND SOFTWARE LICENSE TO COUNTY, Sub-paragraph 63.2.2 is amended to add Amion OnCall to the listing of Third Party Software such that it reads:

"Third Party Software = Oracle Software and Amion OnCall Software"

30. Agreement, Paragraph 64, PATENT, COPYRIGHT AND TRADE SECRET INDEMNIFICATION, is deleted in its entirety and replaced as follows:

"64. <u>PATENT, COPYRIGHT AND TRADE SECRET INDEMNIFICATION.</u>

64.1 Contractor shall indemnify, hold harmless and defend County from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to the operation and utilization of the Contractor's work under this Agreement. County shall inform the Contractor as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure, and shall support the Contractor's defense and settlement thereof. In the event any equipment, part thereof, or software product becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that County's continued use of such item is formally restrained, enjoined, or subjected to a risk of damages, the Contractor, at its sole expense, and providing that County's continued use of the system is not materially impeded, shall either: (a) Procure for County all rights to continued use of the questioned equipment, part, or software product; or (b) Replace the questioned equipment, part, or software product with a non-questioned item; or (c) Modify the questioned equipment, part, or software so that it is free of claims.

64.2 Contractor shall indemnify, hold harmless, and defend County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, but not limited to, defense costs and legal, accounting, and other expert, consulting, or professional fees and attorney's fees, as such are incurred, for or by reason of any actual or alleged infringement of any third party's patent, copyright, or other intellectual property right, or any actual or alleged unauthorized trade secret disclosure or misappropriation, arising from or related to the Software, Third Party Software, Services and/or Deliverables (collectively, the "Indemnified Items") (collectively referred to for purposes of this Sub-paragraph as "Infringement Claim(s)"), provided that the Indemnified Item has not been altered, revised, or modified by County in a manner that causes the alleged infringement. Notwithstanding the foregoing, Contractor shall have no indemnity obligation for infringement claims arising from (A) the development of custom software code required by County and based on specifications provided by County when Contractor has advised County of potential infringement in writing; (B) use of the Indemnified Items in excess of the rights granted hereunder; or (C) County's failure to implement an update or enhancement to the Indemnified Items, provided Contractor provides the update or enhancement at no additional charge to County and provides County with written notice that implementing the update or enhancement would avoid the infringement. Any legal defense pursuant to Contractor's indemnification obligations under this Sub-paragraph shall be conducted by Contractor and performed by counsel selected by Contractor. Notwithstanding the foregoing, County shall have the right to participate in any such defense at its sole cost and expense.

64.3 County shall notify Contractor, in writing, as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure. If any Indemnified Item hereunder becomes the subject of an Infringement Claim under Sub-paragraph 64.2, or in County's opinion is likely to become the subject of such a claim, then, in addition to defending the claim and paying any damages and attorneys' fees as required above in Sub-paragraph 64.2, Contractor shall, at its option and in its sole discretion and at no cost to County, as remedial measures, either: (i) procure the right, by license or otherwise, for County to continue to use the Indemnified Items or affected component(s) thereof, or part(s) thereof, pursuant to this Agreement; or (ii) replace or modify the Indemnified

Items or component(s) thereof with another software, service, item, or component(s) thereof of at least equivalent quality and performance capabilities, in County's determination, until it is determined by County that the Indemnified Items and all components thereof become non-infringing, non-misappropriating, and non-disclosing (hereinafter collectively for the purpose of this Sub-paragraph "Remedial Act(s)").

64.4 If Contractor fails to complete the Remedial Acts described above within forty-five (45) days of notice of the claim (and such time has not been extended by County in writing) then, County shall have the right, at its sole option, to elect to (i) terminate this Agreement with regard to the infringing Indemnified Items for default pursuant to Paragraph 26 (Termination for Default), in which case, in addition to other remedies available to County, Contractor shall reimburse County for all fees paid by County to Contractor under the Agreement, and/or (ii) take such remedial acts as it determines to be commercially reasonable to mitigate any impairment of its use of the infringing Indemnified Items or damages (hereafter collectively referred to as "County's Mitigation Acts"). Contractor shall indemnify and hold harmless County for all amounts paid and all direct and indirect costs associated with County's Mitigation Acts. Failure by Contractor to pay such amounts within ten (10) business days of invoice by County shall, in addition to, and cumulative of all other remedies, entitle County to immediately withhold all payments due to Contractor under this Agreement up to the amount paid by County in connection with County's Mitigation Acts."

31. Agreement, Paragraph 66, WARRANTIES, Sub-paragraph 66.5 is deleted in its entirety and replaced as follows:

"66.5 All the Software, Services, Tasks and Deliverables shall conform to the requirements set forth in this Agreement, without material deviations, for the period commencing upon the Effective Date and continuing through the expiration or termination of System Maintenance and Support Services. Contractor shall institute quality controls, including suitable testing procedures, to ensure that the Software, the Services, Tasks and Deliverables comply with the Documentation, the Statement of Work and Service Levels in a manner consistent with the highest applicable industry standards."

32. Agreement is modified to add Paragraph 66, WARRANTIES, Sub-paragraph 66.6, as follows:

"66.6 The Software components are capable of interconnecting and/or interfacing with each other, any third party software and hardware, and County systems, either through integration or, as applicable, industry standard interface protocols, and when taken together, the Software components, third party software and hardware identified by County, and County systems shall be capable of delivering the functionality needed by County to meet its information systems requirements as set forth in this Agreement. As to County systems and software (which utilize then-current industry standard interface protocols) acquired after the Effective Date, the Software shall be capable of interfacing with such County systems and software using then-current industry standard interface protocols. The Software must be interoperable at the time it is provided to County and at all times thereafter during the term of this Agreement."

33. Agreement is modified to add Paragraph 69, CONTRACTOR'S EXCLUSION FROM PARTICIPATING IN A FEDERALLY FUNDED PROGRAM, as follows:

"69. <u>CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS (2 C.F.R. PART 376).</u>

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

34. Agreement is modified to add Paragraph 70, RESTRICTIONS ON LOBBYING, as follows:

"70. RESTRICTIONS ON LOBBYING.

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

35. Agreement is modified to add Paragraph 71, TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM, as follows:

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

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 67 –Contractor's Warranty of Compliance with County's Defaulted Property Tax Reduction Program shall constitute default under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure of Contractor to cure such default within 10 days of notice shall be grounds upon which County may terminate this Agreement and/or pursue debarment of Contractor, pursuant to County Code Chapter 2.206."

36. Agreement is modified to add Paragraph 72, TERMINATION TRANSITION SERVICES, as follows:

"72. TERMINATION TRANSITION SERVICES.

72.1 For ninety (90) days prior to the expiration date of this Agreement, or upon notice of termination of this Agreement ("Transition Period"), Contractor shall assist the County in extracting and/or transitioning all County Data in the format determined by the County. The Transition Period may be modified as agreed upon in writing by the parties in a Change Notice.

72.2 Upon the expiration or termination of this Agreement, County may require Contractor to provide services in the form of Optional Work to assist County to transition System operations from Contractor to County or County's designated third party ("Transition Services"). Upon County's request for Transition Services, County and Contractor agree to negotiate

in good faith the scope of work and the price for such Transition Services. Contractor agrees that in the event that County terminates the Agreement for any breach by Contractor, Contractor shall perform Transition Services at no cost to County. Contractor shall provide County with all of the Transition Services as provided in this Sub-paragraph 72.2. The duty of Contractor to provide such Transition Services shall be conditioned on County continuing to comply with its obligations under the Agreement, including payment of all applicable fees. Contractor shall have no right to withhold or limit its performance or any of such Transition Services on the basis of any alleged breach of this Agreement by County, other than a failure by County to timely pay the amounts due and payable hereunder. County shall have the right to seek specific performance of this Sub-paragraph 72.2 in any court of competent jurisdiction and Contractor hereby waives any defense that damages are an adequate remedy. Compliance with this Sub-paragraph 72.2 by either party shall not constitute a waiver or estoppel with regard to any rights or remedies available to the parties."

37. Agreement is modified to add Paragraph 73, DATA DESTRUCTION, as follows:

"73. DATA DESTRUCTION.

Contractor(s) that have maintained, processed, or stored the County Data and/or information, implied or expressed, have the sole responsibility to certify that the data and information have been appropriately destroyed consistent with the National Institute of Standards and Technology (NIST) Special Publication SP 800-88 titled Guidelines for Media Sanitization. Available at: http://csrc.nist.gov/publications/PubsDrafts.html#SP-800-88Rev.%201. The data and/or information may be stored on purchased, leased, or rented electronic storage equipment (e.g., printers, hard drives) and electronic devices (e.g., servers, workstations) that are geographically located within the County, or external to the County's boundaries. The County must receive within ten (10) business days, a signed document from Contractor that certifies and validates the data and information were placed in one or more of the following stored states: unusable, unreadable, and indecipherable. Contractor shall certify that any County Data stored on purchased, leased, or rented electronic storage equipment and electronic devices, including, but not limited to printers, hard drives, servers, and/or workstations are destroyed consistent with the current National Institute of Standard and Technology (NIST) Special Publication SP-800-88, Guidelines for Media Sanitization. Contractor

shall provide County with written certification, within ten (10) business days of removal of any electronic storage equipment and devices, that validates that any and all County Data was destroyed and is unusable, unreadable, and/or undecipherable."

38. Agreement is modified to add Paragraph 74, SURVIVAL, as follows:

"74. SURVIVAL.

Any provisions of this Agreement which specifically state that they will survive or which by their nature should survive any termination or expiration shall survive any termination or expiration of this Agreement."

39. Agreement, Exhibit A, Statement of Work, is deleted and replaced in its entirety by Exhibit A-1, Statement of Work, attached hereto and incorporated herein by reference. All references to Exhibit A in the Agreement shall hereafter be replaced by Exhibit A-1.

40. Agreement, Exhibit B, Payment Schedule, is deleted and replaced in its entirety by Exhibit B-1, Pricing Schedule, attached hereto and incorporated herein by reference. All references to Exhibit B in the Agreement shall hereafter be replaced by Exhibit B-1.

41. Agreement, Exhibit C, Contractor Employee Acknowledgement and Confidentiality, is deleted and replaced in its entirety by Exhibit C-1, Contractor Acknowledgement and Confidentiality Agreement, attached hereto and incorporated herein by reference. All references to Exhibit C in the Agreement shall hereafter be replaced by Exhibit C-1.

42. Agreement, Exhibit D, Contractor's EEO Certification, is deleted and replaced in its entirety by Exhibit D-1, Contractor's EEO Certification, attached hereto and incorporated herein by reference. All references to Exhibit D in the Agreement shall hereafter be replaced by Exhibit D-1.

43. Except as provided in this Amendment, all terms and conditions of Agreement shall remain in full force and effect.

/

/

/

/

/

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment of Delegation of Duties and Assignment of Rights of Agreement to be executed by the County's Director of Health Services, and Assignor and Assignee, have caused the same in their respective behalf by their respective duly authorized officer, the day, month, and year first above written.

COUNTY OF LOS ANGELES

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

VERINFORM SYSTEMS, INC.
Assignor

By: _____
Signature

David P. Melamed, M.D.
Printed Name

President and Chief Executive Officer
Title

MYEVALUATIONS.COM, INC.
Assignee

By: _____
Signature

David P. Melamed, M.D.
Printed Name

President and Chief Executive Officer
Title

APPROVED AS TO FORM
MARY C. WICKHAM
Interim County Counsel

By_____
Lillian Anjargolian
Deputy County Counsel

Exhibit A-1
STATEMENT OF WORK

TABLE OF CONTENTS

Section Page

1 Introduction 2
2 Background 2
3 Task 1 - Hosting Services 2
4 Task 2 – System Maintenance and Support Services 4
5 Task 3 – Provide Optional Work 8

Attachments

Attachment A.1 Information Security and Disaster Recovery Requirements
Attachment A.2 Service Levels and Performance Standards

1 INTRODUCTION

A. This Statement of Work (SOW) consists of instructions, tasks, subtasks, Deliverables, Services and other work to be provided by Contractor as part of the System, which shall meet the requirements of the Agreement.

B. The general scope of work to be performed under this SOW, includes, but is not limited to, System Maintenance and Support Services, Hosting Services, and Optional Work for the System.

C. All work hereunder shall be performed at the rates and fees set forth in Exhibit B-1 (Pricing Schedule).

D. Capitalized terms used in this SOW without definition have the meanings given to such terms in the body of the Agreement.

E. Contractor shall provide the Services using Contractor's own equipment during the term of the Agreement.

2 BACKGROUND

A. The County's Medical Education Management System (MEMS or System) contains information regarding the physician post-graduate medical training programs conducted by County in conjunction with the following affiliated medical schools:

   a. Keck School of Medicine of USC (University of Southern California)

   b. David Geffen School of Medicine at UCLA (University of California, Los Angeles)

B. The System tracks and provides information for the County's graduate medical education (GME) training programs.

C. The System is implemented for the County's GME training programs at the following County Facilities, which consist of training facilities where resident physicians provide medical services (including medical centers, multi-ambulatory care centers, comprehensive health centers, clinics and ancillary sites):

   a. LAC+USC Medical Center (LAC+USC MC)

   b. Harbor-UCLA Medical Center (H-UCLA MC)

   c. Olive View-UCLA Medical Center (OV-UCLA MC)

D. The County Facilities at the nucleus of each service provider site represent the central location for GME training activities at that cluster.

E. Each suite of Software licensed by County shall meet the following requirements on a separate basis such that the following requirements shall apply to each suite of Software on an individual basis.

3 TASK 1 - HOSTING SERVICES

A. Contractor shall provide the System by hosting the System on its hardware, equipment or applicable tools at its facilities (hereinafter "Hosting Services") in

compliance with all applicable federal, state and County requirements and Attachment A.1 (Information Security and Disaster Recovery Requirements). In providing the Hosting Services, Contractor shall achieve the service levels and performance standards set forth in Attachment A.2 (Service Level and Performance Standards) and the Agreement (collectively, the "Hosting Service Levels").

B. Contractor represents and warrants that in connection with the Agreement, Contractor shall not deliver any software or programming for installation on County's systems, whether created or developed by Contractor or a third party. Contractor represents and warrants that during the term of this Agreement,

C. Contractor will not withhold or suspend Hosting Services provided hereunder, for any reason, including without limitation, a dispute between the parties arising under the Agreement.

3.1 SUBTASK 1.1 – DEVELOP HOSTING PLAN

A. Contractor shall provide County with a Hosting Plan outlining the steps required for implementation and ongoing maintenance of System Hosting Services.

B. County's Project Director will approve Hosting Plan prior to commencement of implementation activities.

3.2 DELIVERABLE 1.1 - HOSTING PLAN

A. Contractor shall deliver a Hosting Plan as described above in Subtask 1.1.

3.3 SUBTASK 1.2 - PROVIDE HARDWARE AND TECHNOLOGY MANAGEMENT

A. Contractor shall provide web, database and application servers for the System.

B. Contractor shall allocate to County sufficient hard disk space for System Software and data.

C. Contractor shall provide server technology protection, including sufficient power and heating, ventilation, and air conditioning (HVAC) systems.

D. Contractor shall monitor network connectivity and server hardware.

E. Contractor shall monitor performance of the System and report any deficiencies or other problems to County's Project Manager.

3.4 DELIVERABLE 1.2 - HARDWARE AND TECHNOLOGY MANAGEMENT

A. Contractor shall provide hardware and technology management as described in Subtask 1.2.

3.5 SUBTASK 1.3 - PROVIDE DATABASE MANAGEMENT

A. Contractor shall provide and maintain all Third Party Software required to operate the System.

B. Contractor shall install, configure, tune and optimize the Oracle database to the requirements for the System.

C. Contractor shall provide routine database maintenance.

D. Contractor shall monitor System capacity requirements and maintain appropriate load balancing.

3.6 DELIVERABLE 1.3 - DATABASE MANAGEMENT

A. Contractor shall provide database management as described in Subtask 1.3.

3.7 SUBTASK 1.4 – PROVIDE SECURITY MANAGEMENT

A. Contractor shall manage the System's network, operating system, database and application security.

B. Contractor shall manage the System's firewall and Virtual Private Network (VPN) access.

C. Contractor shall install security vulnerability patches.

D. Contractor shall perform routine back-up and recovery services.

E. Contractor shall have a disaster recovery process and manage that process, if the need arises.

3.8 DELIVERABLE 1.4 - SECURITY MANAGEMENT

A. Contractor shall provide security management as described in Subtask 1.4.

3.9 SUBTASK 1.5 - PROVIDE SCHEDULED SERVER MAINTENANCE

A. Notwithstanding the tasks outlined above, Contractor shall perform scheduled server maintenance at least once per week.

B. County's Project Director and Contractor's Project Director shall confer and agree upon the specific interval and day of said scheduled maintenance.

C. Contractor shall perform scheduled server maintenance between the hours of 6:00 pm and 6:00 am Pacific Time or on weekends.

3.10 DELIVERABLE 1.5 - SCHEDULED SERVER MAINTENANCE

A. Contractor shall provide scheduled server maintenance as described in Subtask 1.5.

4 TASK 2 – SYSTEM MAINTENANCE AND SUPPORT SERVICES

A. Contractor shall provide the support and maintenance services, including those described in Attachment A.2 (Service Level and Performance Standards) (collectively, the "System Maintenance and Support Services").

B. System Maintenance and Support Services shall include all goods and services necessary to manage, operate and support the System in order to comply with

the system requirements and specifications and shall be provided during Support Hours for the term of the Agreement.

4.1 SUBTASK 2.1 – PROVIDE SYSTEM MONITORING AND MANAGEMENT

A. Contractor shall actively monitor and manage all Software and Third Party Software used in the System.

B. Contractor shall proactively and reactively notify County of issues, incidents, and problems found by Contractor that affect or may affect the System, and of any required County intervention to avoid or resolve the issue, incident, or problem.

C. Contractor shall conduct calls as requested by County to discuss System monitoring and management activities and related issues.

D. Contractor shall report on System monitoring and management, including the tracking and reporting of any issues, as requested by County.

4.2 SUBTASK 2.2 – PROVIDE SYSTEM HELP DESK SUPPORT

A. Contractor shall provide help desk support for all Software and Third Party Software issues and County support requests, including access to knowledgeable Contractor personnel who can answer questions on the use of the System or provide analysis on solutions to operational problems.

B. Contractor help desk support shall be made available to the County from Monday through Friday, 8am to 5pm Pacific Time (hereinafter "Support Hours"), including unlimited telephone access to help desk support.

C. Contractor shall provide a single point of contact to address System support issues escalated by County related to Software and Third Party Software, incident reporting, resolution, and escalation.

D. Contractor shall provide System incident management and resolution service using a structured IT service management methodology, including: response to Contractor or County-identified incident/problems; assessment of impact on County operations; triaging; tracking; escalation; notification; resolution, and closure.

E. Contractor shall ensure notification and escalation of incidents in accordance with the Attachment A.2 (Service Levels and Performance Standards) and the Agreement.

F. Contractor shall maintain a record of all County requests and incidents, electronically document resolution, conduct root cause analyses, recommend solutions, and implement solutions based on County's request.

G. Contractor shall support County in addressing recurring issues, as needed and mutually agreed upon.

H. Contractor shall provide County personnel with online access to technical support bulletins and other user and self-help support information and forums.

4.3 SUBTASK 2.3 – RELEASE SYSTEM UPDATES AND PATCHES

A. Contractor shall manage and implement System updates, including updates to the Software and Third Party Software, to keep current with Contractor hosting technology standards, industry standards, Third Party Software upgrades, enhancements, updates, patches, bug fixes, etc., and as provided to Contractor's general customer base, in coordination with County's Project Manager. Software updates shall include, but not be limited to, enhancements, version releases and other improvements and modifications to the System.

B. Contractor shall notify County of all Software updates to the System prior to the anticipated installation date thereof. Contractor's provision and installation of such Software updates to the System shall be at no additional cost to County beyond any applicable System Maintenance and Support Fees.

C. Contractor shall promptly provide any Software updates necessary to remedy security problems in the System (e.g., closing "back doors" or other intrusion-related problems) following Contractor's knowledge of such problems. Contractor shall notify County in writing within five (5) calendar days of Contractor's knowledge of the existence of any intrusions or other security problems or breaches that may affect the integrity of the System, subject to the provisions of Paragraph 34 (Confidentiality) of the Agreement.

D. Contractor shall correct any failure of the System, Services, and Deliverables to perform in accordance with the specifications, including without limitation, defect repair, programming corrections, and remedial programming, and provide such services and repairs required to maintain the System, Services, and Deliverables so that they operate properly and in accordance with the specifications.

4.4 SUBTASK 2.4 – IMPLEMENT SYSTEM UPGRADES

A. Upon County's request, Contractor shall upgrade County Facilities currently using the legacy VerinformRM Software to the most current version of MyEvaluations.com Software provided by Contractor. Contractor's provision and installation of such System upgrade shall be at no additional cost to County beyond any applicable System Maintenance and Support Fees.

B. Contractor shall manage all steps necessary to implement System upgrades in conjunction with County's Project Manager, including without limitation:

   a. Determine a mutually agreed upon schedule and timeframe to implement such System upgrade;

   b. Prepare a technical and functional assessment;

c. Provide a list of impacts resulting from the System upgrade, including required County workflow changes, client environment, and training needs;

d. Validate code packages upon the install of the System upgrade package;

e. Conduct all testing activities as necessary (e.g., regression testing, integration testing, etc.); and

f. Resolve problems/incidents found during such testing activities.

4.5 SUBTASK 2.5 – CONDUCT SERVICE LEVEL MONITORING AND REPORTING

A. Contractor shall conduct Service Level monitoring and reporting in accordance with Attachment A.2 (Service Levels and Performance Standards).

B. Contractor shall conduct calls as requested by County to discuss Service Levels and related issues.

4.6 SUBTASK 2.6 – MAINTENANCE OF SOFTWARE COMPATIBILITY WITH SYSTEM

A. Contractor shall maintain compatibility of Third Party Software (including New Software acquired as Optional Work) with the System.

B. Prior to the installation of any Third Party Software, or any update thereto, Contractor shall test and ensure such Third Party Software's compatibility with the then current version of the System.

C. Contractor shall all ensure that the System is compatible with the required or critical updates to Third Party Software, including without limitation, service and compatibility packs and security patches, promptly upon their release.

D. Notwithstanding the foregoing, any Third Party Software that may be incorporated by Contractor into the System shall be subject to the same System Maintenance and Support Services obligations and requirements as the System components that are owned by, or are proprietary to, Contractor.

E. Contractor shall maintain the System's compatibility with County client environment by providing, among others, Software updates to the System and hardware upgrades to the System hardware.

4.7 SUBTASK 2.7 – MAINTAIN SECURITY CONTROLS AND PROCESSES

A. Contractor shall provide System specific security services based on County guidelines, in compliance with applicable federal, state, and County requirements, and in accordance with the Agreement, including, without limitation:

a. Provide and maintain virus protection;

b. Monitor the System and Software to identify security errors, exceptions, attempted violations, deficiencies, weaknesses and opportunities for enhancements;

c. Report security violations to County per County policies; and

d. Monitor legal and regulatory requirements, conduct compliance testing, and provide compliance and certification review in accordance with this SOW.

B. Contractor shall manage and implement authorization controls and processes, including, without limitation:

a. Maintain and update System's security technology architecture;

b. Provide and maintain a user database for application-specific security including task access, positions, and roles;

c. Conduct batch user account provisioning for Software accounts as requested by County; and

d. Create and manage Contractor's user accounts, in accordance with Contractor's change control process.

C. Contractor shall conduct calls as requested by County to discuss security and authorization management activities and related issues.

4.8 DELIVERABLE 2 - PROVIDE SYSTEM MAINTENANCE AND SUPPORT

A. Contractor shall provide System Maintenance and Support Services in accordance with Task 2.

5 TASK 3 – PROVIDE OPTIONAL WORK

A. If requested in writing by County and mutually agreed upon, Contractor shall provide to County Optional Work using Pool Dollars, provided there are sufficient Pool Dollars available for such Optional Work. Optional Work may include Software modifications, consisting of New Software, Interfaces, and/or Professional Services (e.g., consulting services and additional training).

B. Any enhancements or modifications of the specifications, resulting from Optional Work shall be incorporated into, and become part of, the Software. Any product of Optional Work shall become part of the System, as applicable, and shall be subject to County written approval in accordance with the terms of the Agreement.

C. Upon County's request, Contractor shall submit to County for approval a not-to-exceed Maximum Fixed Price calculated based on the pricing terms set forth in Exhibit B-1 (Pricing Schedule) and a proposed scope of work. County and Contractor shall agree on the scope of work for the provision of such Optional Work, including, as applicable, testing, warranty, etc.

5.1 TRAINING SERVICES

A. As Optional Work, Contractor shall provide training (including training documentation and materials) to County personnel, at a location to be

designated by County, at no additional charge to County beyond the applicable training rates described in Exhibit B-1 (Pricing Schedule). In addition, County may participate, at no additional charge, in any training seminars that may be held, at Contractor's discretion, for the benefit of all customers and/or licensees.

Attachment A.1
INFORMATION SECURITY AND DISASTER RECOVERY REQUIREMENTS

This Attachment A.1 sets forth information security procedures to be established by Contractor before the effective date of this Agreement and maintained throughout the term of the Agreement. These procedures are in addition to the requirements of the Agreement and the Business Associate Agreement between the parties. They present a minimum standard only. However, it is Contractor's sole obligation to (i) implement appropriate measures to secure its systems and data, including Personally Identifiable Information (PII), Protected Health Information (PHI), and County Confidential Information, against internal and external threats and risks; and (ii) continuously review and revise those measures to address ongoing threats and risks. Failure to comply with the minimum standards set forth in this Attachment will constitute a material, non-curable breach of the Agreement by Contractor, entitling County, in addition to and cumulative of all other remedies available to it at law, in equity, or under the Agreement, to immediately terminate the Agreement. Unless specifically defined in this Attachment, capitalized terms shall have the meanings set forth in the Agreement.

1. **Security Policy**. Contractor shall establish and maintain a formal, documented, mandated, company-wide information security program, including security policies, standards and procedures (collectively "**Information Security Policy**"). The Information Security Policy will be communicated to all Contractor personnel and subcontractors in a relevant, accessible, and understandable form and will be regularly reviewed and evaluated to ensure its operational effectiveness, compliance with all applicable laws and regulations, and to address new threats and risks. Contractor shall make the Information Security Policy available for County review.

2. **Personnel and Contractor Protections**. Contractor shall screen and conduct background checks on all personnel contacting County Confidential Information, including Personally Identifiable Information and Protected Health Information, for potential security risks and require all employees, and subcontractors to sign an appropriate written confidentiality/non-disclosure agreement. All agreements with third parties involving access to Contractor's systems and data, including all outsourcing arrangements and maintenance and support agreements (including facilities maintenance), shall specifically address security risks, controls, and procedures for information systems. Contractor shall supply each of its personnel and subcontractors with appropriate, ongoing training regarding information security procedures, risks, and threats. Contractor shall have an established set of procedures to ensure personnel and subcontractors promptly report actual and/or suspected breaches of security.

3. **Removable Media**. Except in the context of Contractor's routine back-ups or as otherwise specifically authorized by County in writing, Contractor shall institute strict physical and logical security controls to prevent transfer of Personally Identifiable Information and Protected Health Information to any form of Removable Media. For purposes of this Attachment, "**Removable Media**" means portable or removable hard disks, floppy disks, USB memory drives, zip disks, optical disks, CDs, DVDs, digital film, digital cameras, memory cards (e.g., Secure Digital (SD), Memory Sticks (MS), CompactFlash (CF), SmartMedia (SM), MultiMediaCard (MMC), and xD-Picture Card (xD)), magnetic tape, and all other removable data storage media.

4. **Storage, Transmission, and Destruction of Protected Health Information.** All Protected Health Information shall be rendered unusable, unreadable, or indecipherable to unauthorized individuals in accordance with HIPAA, as amended and supplemented by the HITECH Act. Without limiting the generality of the foregoing, Contractor will encrypt all electronic Protected Health Information (stored and during transmission) in accordance with HIPAA and the HITECH Act, as implemented by the U.S. Department of Health and Human Services. If Protected Health Information is no longer required to be retained by Contractor under the Agreement and applicable law, Contractor shall destroy such PHI by (a) shredding or otherwise destroying paper, film, or other hard copy media so that the Protected Health Information cannot be read or otherwise cannot be reconstructed; and (b) clearing, purging, or destroying electronic media containing Protected Health Information consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization[1] such that the Protected Health Information cannot be retrieved. Contractor shall use secure technology to protect County Data, PII and other Confidential Information of County and the users of the System in its storage and transmission between the user and the hosting environment which shall include the following: (a) Industry standard products to protect customer data when transmitting across public networks, including 128/256-bit Secure Socket Layer ("**SSL**") certificates signed by mutually agreed upon certificate authority and 168 bit Triple Data Encryption Standard ("**DES**") Internet Protocol Security ("**IPsec**") VPN connections; and (b) a network structure protected by redundant clustered firewalls and monitored with intrusion prevention systems. All security systems shall be from leading security industry vendors, implemented in conjunction with Contractor's third-party security firms, and validated by Contractor's separate third party vulnerability/penetration testing firms. The firewall logs shall be reviewed weekly and analyzed proactively by enterprise security management systems to identify security threats. The hosting environment shall be safeguarded using Network Address Translation ("**NAT**"), Internet Protocol (IP) masquerading, port redirection, non-routable IP addressing and ACL's, multi-factor authentication, and management network segregation.

5. **Data Control; Media Disposal and Servicing**. Subject to and without limiting the requirements under Section 4 (Storage, Transmission and Destruction of Protected Health Information), Personally Identifiable Information, Protected Health Information, and County Confidential Information (i) may only be made available and accessible to those parties explicitly authorized under the Agreement or otherwise expressly approved by County in writing; (ii) if transferred across the Internet, any wireless network (e.g., cellular, 802.11x, or similar technology), or other public or shared networks, must be protected using appropriate encryption technology as designated or approved by County in writing; and (iii) if transferred using Removable Media (as defined above) must be sent via a bonded courier or protected using encryption technology designated or approved by County in writing. The foregoing requirements shall apply to back-up data stored by Contractor at off-site facilities. In the event any hardware, storage media, or Removable Media must be disposed of or sent off-site for servicing, Contractor shall ensure all County Confidential Information, including Personally Identifiable Information and Protected Health Information, has been cleared, purged, or scrubbed from such hardware and/or

[1] Available at http://www.csrc.nist.gov

media using industry best practices (e.g., NIST Special Publication 800-88, Guidelines for Media Sanitization[2]).

6. **Hardware Return**. Upon termination or expiration of the Agreement or at any time upon County's request, Contractor will return all hardware, if any, provided by County containing Personally Identifiable Information, Protected Health Information, or County Confidential Information to County. The Personally Identifiable Information, Protected Health Information, and County Confidential Information shall not be removed or altered in any way. The hardware should be physically sealed and returned via a bonded courier or as otherwise directed by County. In the event the hardware containing County Confidential Information or Personally Identifiable Information is owned by Contractor or a third-party, a notarized statement, detailing the destruction method used and the data sets involved, the date of destruction, and the company or individual who performed the destruction will be sent to a designated County security representative within fifteen (15) days of termination or expiration of the Agreement or at any time upon County's request. Contractor's destruction or erasure of Personally Identifiable Information and Protected Health Information pursuant to this Section shall be in compliance with industry Best Practices (e.g., NIST Special Publication 800-88, Guidelines for Media Sanitization[3]).

7. **Physical and Environmental Security**. Contractor facilities that process Personally Identifiable Information, Protected Health Information, or County Confidential Information will be housed in secure areas and protected by perimeter security such as barrier access controls (e.g., the use of guards and entry badges) that provide a physically secure environment from unauthorized access, damage, and interference.

8. **Communications and Operational Management**. Contractor shall (i) monitor and manage all of its information processing facilities, including, without limitation, implementing operational procedures, change management and incident response procedures; and (ii) deploy adequate anti-viral software and adequate back-up facilities to ensure essential business information can be promptly recovered in the event of a disaster or media failure; and (iii) ensure its operating procedures will be adequately documented and designed to protect information, computer media, and data from theft and unauthorized access.

9. **Access Control**. Contractor shall implement formal procedures to control access to its systems, services, and data, including, but not limited to, user account management procedures and the following controls:

    a. Network access to both internal and external networked services shall be controlled, including, but not limited to, the use of properly configured firewalls;

    b. Operating systems will be used to enforce access controls to computer resources including, but not limited to, authentication, authorization, and event logging;

    c. Applications will include access control to limit user access to information and application system functions; and

[2] Available at http://www.csrc.nist.gov
[3] Available at http://www.csrc.nist.gov

d. All systems will be monitored to detect deviation from access control policies and identify suspicious activity. Contractor shall record, review and act upon all events in accordance with incident response policies set forth below.

10. **Security Incident.** A "Security Incident" shall have the meaning given to such term in 45 C.F.R. § 164.304.

a. Contractor will promptly notify (but in no event more than twenty-four (24) hours after the detection of a Security Incident) the designated County security contact by telephone and subsequently via written letter of any potential or actual security attacks or Security Incidents.

b. The notice shall include the approximate date and time of the occurrence and a summary of the relevant facts, including a description of measures being taken to address the occurrence. A Security Incident includes instances in which internal personnel access systems in excess of their user rights or use the systems inappropriately.

c. Contractor will provide a monthly report of all Security Incidents noting the actions taken. This will be provided via a written letter to the County security representative on or before the first (1st) week of each calendar month. County or its third-party designee may, but is not obligated, perform audits and security tests of Contractor's environment that may include, but are not limited to, interviews of relevant personnel, review of documentation, or technical inspection of systems, as they relate to the receipt, maintenance, use, retention, and authorized destruction of Personally Identifiable Information, Protected Health Information, and County Confidential Information.

d. In the event County desires to conduct an unannounced penetration test, County shall provide contemporaneous notice to Contractor's Vice President of Audit, or such equivalent position. Any of County's regulators shall have the same right upon request. Contractor shall provide all information reasonably requested by County in connection with any such audits and shall provide reasonable access and assistance to County or its regulators upon request. Contractor agrees to comply with all reasonable recommendations that result from such inspections, tests, and audits within reasonable timeframes. County reserves the right to view, upon request, any original security reports that Contractor has undertaken on its behalf to assess Contractor's own network security. If requested, copies of these reports will be sent via bonded courier to the County security contact. Contractor will notify County of any new assessments.

11. **Contractor Self Audit.** Contractor will provide to County a summary of: (1) the results of any security audits, security reviews, or other relevant audits listed below, conducted by Contractor or a third-party; and (2) the corrective actions or modifications, if any, Contractor will implement in response to such audits.

Relevant audits conducted by Contractor as of the effective date include:

(i) **External Audit –** Audit conducted by non-Contractor personnel, to assess Contractor's level of compliance to applicable regulations, standards, and contractual requirements.

(ii) **Internal Audit –** Audit conducted by qualified Contractor personnel (or contracted designee) not responsible for the area of review, of Contractor organizations, operations, processes, and procedures, to assess compliance to and effectiveness of Contractor's Quality System ("**CQS**") in support of applicable regulations, standards, and requirements.

(iii) **Supplier Audit –** Quality audit conducted by qualified Contractor personnel (or contracted designee) of product and service suppliers contracted by Contractor for internal or Contractor client use.

(iv) **Detailed findings**- are not published externally, but a summary of the report findings, and corrective actions, if any, will be made available to County as provided above.

b. SSAE-16 and/or ISO 27001 – As to the Hosting Services only:

(i) Audit spans a full twelve (12) months of operation and is produced every six (6) months (end of June, end of December) to keep it "fresh."

(ii) The resulting detailed report is available to County.

Detailed findings are not published externally, but a summary of the report findings, and corrective actions, if any, will be made available to County as provided above.

12. **Security Audits.** In addition to the audits described in Section 11 (Contractor Self Audit), during the term of this Agreement, County or its third-party designee may annually, or more frequently as agreed in writing by the parties, request a security audit of Contractor's data center and systems. The audit will take place at a time mutually agreed to by the parties, but in no event on a date more than ninety (90) days from the date of the request by County. County's request for security audit will specify the areas (e.g., Administrative, Physical and Technical) that are subject to the audit and may include but not limited to physical controls inspection, process reviews, policy reviews evidence of external and internal vulnerability scans, penetration tests results, evidence of code reviews, and evidence of system configuration and audit log reviews. County shall pay for its third-party costs associated with the audit, unless such audit is the result of a Security Incident. It is understood that summary data of the results may filtered to remove the specific information of other Contractor customers such as IP address, server names, etc. Contractor shall cooperate with County in the development of the scope and methodology for the audit, and the timing and implementation of the audit. Any of the County's regulators shall have the same right upon request, to request an audit as described above. Contractor agrees to comply with all reasonable recommendations that result from such inspections, tests, and audits within reasonable timeframes.

13. **Hosting Services Security.** Contractor shall provide the Hosting Services in Statement on Standards for Attestation Engagements ("**SSAE**") 16 certified facilities, or facilities of successor certification, with: (i) Access controlled through documented procedures;; (ii) 24×7×365 security and technical engineering staff; (iii) Physical access which requires

government-issued picture identifications for access validation and multi-factor authentication for floor access; and (iv) video surveillance monitoring on a 24×7×365 basis. Contractor's physical cage environments shall be governed by strict Access Control Lists ("**ACL**") for physical access to the environments. All data and storage cabinets shall be secured with locks, requiring proximity cards for physical access. All cage access and cabinet access shall be monitored through internal management and logging systems.

14. **Hosting Services Data Centers.** As of the effective date of the Agreement, Contractor shall have a fail-over recovery data center facility ("**Secondary Data Center**") in an alternate location that meets County's guidelines to be geographically dispersed. The Secondary Data Center shall not be located on the same electrical power grid or same telecommunications lines or the same floodplain, same earthquake fault zone, or tsunami susceptible coastal region as the primary data center. Both the primary data center and the secondary data center shall reside within the United States. Contractor shall ensure the recovery site will be properly equipped with sufficient backup generators dedicated for the Contractor's use to support all Services, including, but not limited to, the Hosting Services, with the amount of fuel on-site that will enable the site to operate for seventy-two (72) hours or whatever the maximum local fuel storage regulations will allow. Contractor shall provide County with copies of Contractor's written agreements with primary and backup local fuel service providers to ensure uninterrupted replenishment of Contractor's supplies. Contractor must demonstrate to County that their local fuel suppliers are not dependent on public commercial power in order to fulfill this requirement. Contractor shall ensure that the plan and recovery processes and procedures support relocation of Hosting Services performed to the recovery site to meet the requirements of this Agreement. If the recovery facility is not permanently dedicated to recovery of services provided to County, Contractor shall provide documented procedures and agreements with any other user of the facility that such users will be preempted to provide the capacity to meet the requirements of this Agreement. Contractor shall ensure the Plan (as defined below) and recovery processes and procedures support relocation of Services to the recovery site to meet the requirements of this Agreement. The Plan and all recovery processes, policies, and facilities must be submitted to County for approval by four (4) weeks prior to the start of provision of the Hosting Services. The Plan shall be tested prior to the start of provision of the Hosting Services covered by this Agreement. Contractor shall create daily backup copies of all County Data and other work related to the Hosting Services and shall transmit (either electronically or via physical backup media) such copies to a backup facility each day such that the maximum data loss from the complete loss of the primary facility is no more than 26 hours. The backup facility must be in a secured and accessible location that is geographically dispersed from the primary facility. Contractor shall ensure that the provisions for information security, physical security, and information privacy specified in this Agreement are implemented at any alternate or backup site or storage facility and for any information transmitted between the primary site and alternate sites or storage facilities.

15. **Business Continuity Guidelines.** The following represent guidelines for Contractor's Business Continuity programs in support of County. Contractor must be able to demonstrate a viable Business Continuity and Disaster Recovery program that includes planning, testing, and reporting components which will support the Service Levels and Performance Standards. Contractor shall provide a copy of the Business Continuity and Disaster Recovery Plan ("**Plan**") for County review within 30 days of project initiation.

Contractor must also demonstrate a process by which the overall program is maintained and kept current.

Contractor shall certify on a quarterly basis to County that: (a) all required Plan maintenance has been performed, (b) revisions to the Plan are no less protective than prior version of the Plan, (c) the Plan is up to date.

Contractor shall provide County with a copy of the Plan at the written request of County throughout the term of this Agreement and upon revision of the Plan. Contractor shall include any recovery specific addendums provided by County that may provide additional detailed specifications for recovery as appropriate to County requirements, develop action plan to mitigate risks and issues discovered during the Plan review;

The Plan shall include, but is not limited to, the following content:

1.1 Overall Program Description:
- (a) Affiliate name, description, and operational location(s)
- (b) Version Information: Current version and approval date and version history
- (c) Most Recent Test Date
- (d) Plan Author, Owner, and Approver

1.2 For each function performed on behalf of County:
- (a) Description including location(s), both primary and backup, where work is performed as well as Service Levels and Performance Standards
- (b) Criticality as agreed between Contractor and County
- (c) Recovery requirements including:
  - (i) Recovery Time Objective
  - (iii) Recovery Point Objective (if applicable)
  - (iv) Recovery Capacity Objective
- (d) Recovery capability for potential service disruptions including but not limited to:
  - (i) National and/or Regional risks such as weather hazards, political issues, geologic instability, etc.
  - (ii) Loss of primary workspace
  - (iii) Loss of supporting infrastructure – telecommunications, networks, etc.
  - (iv) Loss of critical third party contractors
  - (v) Unavailability of personnel – all potential situations including but not limited to widespread medical emergencies including pandemics
- (e) Recovery Strategies

1.3 Recovery Team including roles, responsibilities, staffing, training, and awareness programs

1.4 Internal notification and escalation process

1.5 Notification and disruption management process with County and other external entities

1.6 Site evacuation and/or relocation strategies

1.7 Detailed tasks and procedures including but not limited to:
- (a) Tasks to be performed and estimated duration
- (b) Dependencies

(c) Required providers, sub-contractors, and suppliers, including contact information, access/account numbers, activation instructions and authorized personnel at Contractor who may initiate Contractor recovery activities

1.8 Evidence that Contractor has required and verified recovery capability of sub-providers and other parties that Contractor is dependent on to provide Services to County.

2. The Test Planning Process shall include, but is not limited to, the following content:

2.1 Testing Methodology, Scope, and Objectives including but not limited to:

(a) Support for Plan and Agreement requirements

(b) Documentation of variances between test objectives and Agreement requirements (if any)

(c) Documentation of variances between test and actual disruption recovery processes (if any)

(d) Performance measurement requirements

(e) Success criteria

(f) Issue tracking, management, and resolution processes and procedures

(g) Involvement of external entities such as County, infrastructure providers, and third party Contractors

2.2 Test Environment Setup and Execution including but not limited to:

(a) Environment configuration and capacities: Documentation of variances between test and production environments such as transactions, number of users, data source sizing, etc.

(b) Test cases and execution scripts

(c) Resource requirements including but not limited to: (i) technology and facility infrastructure; (ii) personnel – primary and backup staff participation; (iii) external entity involvement

(d) Measures to isolate production systems from possible disruption during the course of testing

3. The test reporting process shall include, but is not limited to, the following content:

3.1 Testing results summary including overall success or failure of the test

3.2 Testing results vs. objectives: explanation of discrepancies (if any)

3.3 Listing of issues from prior tests that were confirmed as being resolved with this exercise

3.4 Listing of issues identified including priority, responsible party and schedule for resolution

3.5 Statement as to whether test results demonstrate ability to meet Agreement requirements should a real disruption occur.

Attachment A.2
SERVICE LEVELS AND PERFORMANCE STANDARDS

This Attachment A.2 (Service Levels and Performance Standards) describes the Service Levels to be achieved by Contractor regarding the Software and Hosting Services. Except as provided in this Attachment, capitalized terms shall have the meanings set forth in the body of the Agreement.

1. HOSTING OBLIGATIONS

1.1 GENERAL REQUIREMENTS

In addition to the other obligations set forth in the Agreement and this Attachment, Contractor shall do the following:

- Operate the Hosting Services on Servers owned and maintained by Contractor and the Hosting Provider on a **24×7×365** basis. "**Server**" shall mean the server(s) on which the Hosting Services will be hosted.
- Allow access to the Hosting Services over the Internet from the Hosting Environment facilities on a 24×7×365 basis and provide secure and confidential storage of all information transmitted to and from the Hosting Services. The hosting environment shall provide redundancy at all tiers of the hosting environment, redundant clustered firewalls with redundant Internet connections, running industry standard secure inspection, and analysis software.
- Supply hardware, security protocols, software and communications support structure to facilitate connection to the Internet in accordance with the requirements set forth herein.
- Maintain back-up Servers, at Contractor Secondary Data Center, in a geographically different site from where the Servers at Contractor Primary Data Center are located.
- Review security notifications and alerts relevant to the hosting environment (e.g., Contractor notifications of bugs, attacks, patches), and apply as appropriate to maintain the highest level of defense.
- Contractor shall provide adequate firewall protection in order to secure personal data and other Confidential Information of County and users of the Hosting Services from unauthorized access by third parties.

1.2 HOSTING PROVIDER

Contractor shall ensure its Hosting Provider complies with the terms of the Agreement, including the requirements of this Attachment A.2. Contractor shall be jointly and severally liable for any breach by Hosting Provider of the Agreement, including the requirements of this Attachment A.2.

1.3 CHANGE OF HOSTING PROVIDER

In the event that, during the term of the Agreement, Contractor desires to transition to a new Hosting Provider, Contractor shall provide County with at least sixty (60) calendar days prior notice of the transition. Contractor shall reasonably cooperate

with County in evaluating the security and performance of the proposed hosting provider. County shall have thirty (30) calendar days from receipt of notice of the transition to reasonably object to the proposed new Hosting Provider. In the event of such objection, the parties shall negotiate in good faith regarding alternate Hosting Providers. If the parties are unable to reach agreement within thirty (30) calendar days of receipt by Contractor of the objection, County may elect to terminate this Agreement without further obligation.

2. SERVICE MONITORING AND MANAGEMENT

Contractor will perform continuous monitoring and management of the Hosting Services to optimize Availability of Software and Hosting Services. Included within the scope of this section is the proactive monitoring of the Server and all service components of Contractor's hosting environment and firewall for trouble on a 7 day by 24 hour by 365 day basis, and the expedient restoration of components when failures occur within the time period set forth in Section 7 (Service Outages). Contractor shall maintain County's ability to monitor the Hosting Services network connectivity and key performance metrics through a system administration portal provided by Contractor. Contractor shall maintain redundancy in all key components such that Outages are less likely to occur due to individual component failures. Contractor will monitor "heartbeat" signals of all servers, routers, and leased lines, and HTTP availability of the Software and Hosting Services, by proactive probing at 30-second intervals 24 hours a day using an automated tool. If a facility does not respond to a ping-like stimulus, it shall be immediately checked again. When Contractor receives a "down" signal, or otherwise has knowledge of an Outage or Error (including, without limitation, any failure in the Server or application software and/or hardware used to provide the Service), Contractor personnel will:

- Confirm (or disconfirm) the Outage by a direct check of the facility;
- If confirmed, take such action as may restore the service, or, if determined to be an internet service provider or telecom carrier problem, open a trouble ticket with the relevant companies;
- Notify County by telephone or pager according to mutually agreed upon procedures that an Outage has occurred, providing such details as may be available, including the Contractor trouble ticket number, if appropriate, and time of Outage;
- Work each Error until resolution, escalating to management or to engineering as required; and
- Notify County of final resolution, along with any pertinent findings or action taken, and request concurrence to close the trouble ticket.

3. BACKUPS

3.1 REGULAR BACK-UPS

Contractor shall provide for both the regular back-up of standard file systems relating to the Server, Software and Hosting Services, and the timely restoral of such data on request by County due to a site failure. In particular, Contractor shall:

- Perform weekly full back-ups;
- Perform daily incremental back-ups;
- Send back-up media to secured, off-site storage facilities with a thirty (30) calendar day rotation of media;
- Retain one back-up tape per month for one (1) year;
- Fulfill restoral requests as directed by County due to site failures. Restoral will be performed within the interval of two (2) to four (4) hours dependent on the urgency of the request, and the agreed upon location of the desired backup media;
- If the hosting server or location is expected to be down for more than twenty-four (24) hours, Contractor shall immediately transfer appropriate back-up data and re-establish all hosting operations in an appropriately functioning secondary server or location; and
- Periodically review and validate Contractor's backup procedures, and periodically validate the accuracy and integrity of the backup data. Contractor shall provide a written report of any inaccuracies and inconsistencies in a format approved by County.

3.2 DATA REPLICATION ACROSS DATA CENTERS

County Data shall be stored on redundant applications and database hardware in Contractor Primary Data Center and replicated to Contractor Secondary Data Center. Data security shall be provided by SSL encryption, IPsec encryption, multiple levels of virus protection intrusion prevention systems, multi-factor management authentication, enterprise firewalls, and filtering routers. Hosting Environment shall provide redundancy at all tiers of the environment, redundant clustered firewalls with redundant Internet connections, running industry standard secure inspection, and analysis software. There shall be no data loss due to environmental failures or catastrophic disk failures, except for un-replicated/un-committed transactions. Contractor shall utilize replication, shadowing, and snap-shot technologies between physical systems and Hosting Environment. In the event of a significant Contractor Primary Data Center failure, a failover to the Contractor Secondary Data Center shall be completed. A restoration to the primary environment shall occur at a mutually agreeable time between the Contractor and County.

4. SERVICE LEVELS

4.1 SERVICE REQUEST TRACKING SYSTEM

(a) For use in responding to County's maintenance and Support Requests, Contractor shall maintain an automated Support Request Tracking System

("**SRTS**") with a description of each Support Request, response, and status. Contractor shall regularly review and update all open Support Requests and follow up on unresolved Support Requests. Contractor will provide County "read only" access to the SRTS for County's separate review of all open and closed County Support Requests. Each Support Request shall be detailed in an Internet accessible Support Request report, in an exportable format agreed upon by County, and shall include the following information.

- Identification Number. An automatically assigned unique identification number, which shall be used to track, document and respond to inquiries relating to a specific Support Request;
- Date and Time. The date and time the Support Request was initiated, which shall be used to document and/or monitor overall response and resolution time;
- Person Initiating Service Request: The name, title, and telephone number of the person initiating the Support Request, who shall be the primary point of contact used for inquiries regarding the request, unless otherwise assigned by County Project Manager;
- Call Taker. The name of Contractor personnel taking the call or first receiving an electronically submitted Support Request;
- Contractor Employee Currently Assigned. The name and title of the Contractor's employee currently managing the resolution;
- Location. facility and/or physical location where the problem occurred;
- Problem Priority Level. The problem priority level as indicated by the reporting County Staff and as further defined in Section 4.2 (Support Request Service Levels) of this Attachment A.2;
- Reference Number. The County-assigned reference number, if applicable;
- Service Request Description. A detailed description of the problem or deficiency encountered or support requested;
- Attached Documentation. The identification or description of, and, if available, copies of, documentation submitted by County with the Support Request to clarify the request, including screen prints, logs, report samples, etc.
- Service Request Type. The Support Request type (e.g., software change, deficiency, report request, etc.), as assigned by County which categorizes and specifies the type of request;
- Service Request Subtype. The Support Request subtype (e.g., specific function to be changed, specific function that is deficient, type of report change requested, etc.), as assigned by County, as a subcategory of the Service Request Type defined in Section 4.2(a) (Support Requests) of this Attachment A.2;

- Resolution Description. The Contractor's analysis of the problem, and the proposed resolution (e.g., Update or other Enhancement);
- Resolution Activity. The Contractor's resolution activities and activity dates to monitor resolution time (e.g., description of calls to and from Contractor and County, referrals to Contractor personnel for correction or investigation, referrals to Third-Party Software vendor, coordination of Update or Enhancement releases, validation of correction prior to release to County, etc.);
- Estimated Fix Date. The estimated date for Contractor to complete the Support Request;
- Correction Applied Date. The date Contractor applied the correction; and
- Resolution Status. The current status of the Support Request (e.g., open or closed).

(b) Contractor shall maintain a historical knowledge base of Service-related problems to identify patterns and facilitate timely resolution.

4.2 SUPPORT REQUEST SERVICE LEVELS

Contractor shall Respond to and Resolve Support Requests as set forth below.

(a) Support Requests. County shall classify its requests for Error Corrections consistent with the descriptions below. Each such request shall be referred to herein as a "**Support Request**." County shall notify Contractor of Support Requests via a Contractor-specified telephone number, email address, web-based SRTS, or other Contractor-provided mechanisms. All Contractor technical support personnel providing telephone support must do so in a manner such that the communication does not diminish County's ability to effectively utilize the Software and Hosting Services or negatively impact the satisfaction of the users with the Software and Hosting Services. Such impacts could arise from technology issues such as delays or jitter in telecommunication lines, or the failure of the Contractor technical support personnel to provide support in standard American English with understandable accents or otherwise demonstrate sufficient language skills as reasonably determined by County.

Support Request Classification	Description
Critical	1. Issue affecting entire system or single critical production function; 2. System down or operating in materially degraded state; 3. Potential patient care affected; 4. Data integrity at risk; 5. Material financial impact;

	6.	Declared a Critical Support Request by the County CIO or designee; and/or
	7.	Widespread access interruptions
High	8.	Primary workflow module failure that materially impairs its performance; and/or
	9.	Data entry or access is materially impaired on a limited basis
Medium	10.	System is operating with minor issues that can be addressed with a work around
Low	11.	Request for assistance, information, or services that are routine in nature

(b) Response Time Service Level. Response time shall be measured from the time when Contractor receives the Support Request until the time Contractor has Responded to the Support Request. "**Respond**" means that Contractor has engaged on the Support Request; is working continuously to diagnose the corresponding Errors, formulate a plan to address any such Errors, and execute that plan; and has notified the County user originating the Support Request that such support has begun, in the manner requested by the user originating the Support Request (e.g., e-mail, phone) or, if a specific means of communication is not requested, using direct interactive (person to person) method of communication to achieve contact with such user (e.g., no email or automated voicemail). As used herein, Monthly Fees refers to the prorated monthly amount of annual System Maintenance and Support Fees and Hosting Fees described in Appendix B-1 (Pricing Schedule).

Support Request Classification	Service Level Metric (Response Time)	Service Level Credits
Critical	100% (15) minutes	0.5% of Monthly Fees* for the initial service level failure and .05% of Monthly Fees* for each additional fifteen (15) minute increment that begins after the initial service level failure
High	100% (30) minutes	0.1% of Monthly Fees* for the initial service level failure and 0.01% of Monthly Fees* for each additional fifteen (15) minute increment that begins after the initial service level failure

(c) Resolution Time Service Level. Resolution time shall be measured from the time when Contractor receives the Support Request until the time Contractor has Resolved the Support Request. "**Resolve**" means that, as to Errors, Contractor has provided County the corresponding Error Correction and County has confirmed such Error Correction.

Support Request Classification	Service Level Metric (Resolution Time)	Service Level Credits
Critical	100% (4) hours	5% of Monthly Fees* for the initial service level failure and 0.5% of Monthly Fees* for first additional one (1) hour increment that begins after the initial service level failure and doubling for each additional (1) hour
High	100% (8) hours	2.5% of Monthly Fees* for the initial service level failure and 0.25% of Monthly Fees* for each additional one (1) hour increment that begins after the initial service level failure
Medium	100% (2) days	1% of Monthly Fees* for the initial service level failure and 0.1% of Monthly Fees* for each additional one (1) day increment that begins after the initial service level failure
Low	100% (5) days	0.5% of Monthly Fees* for the initial service level failure and 0.05% of Monthly Fees* for each additional one (1) day increment that begins after the initial service level failure

(d) Escalation. With respect to any Critical Support Request, until Resolved, Contractor shall escalate that Support Request within sixty (60) minutes of receipt to the appropriate Contractor support personnel (as designated by Contractor).

4.3 AVAILABILITY SERVICE LEVEL

The Software and Hosting Services shall be available for the percentage of the time each month of the term of the Agreement as set forth below.

Service Level Metric	Service Level Credits
At a minimum, 99.9% Availability for the Software and Hosting Services in each calendar month of the term of the Agreement. "**Availability**" means the actual uptime expressed as a percentage of the Scheduled Uptime for the Software and Hosting Services (i.e., Availability % = ((Scheduled Uptime – Downtime)/(Scheduled Uptime)) × 100%). "**Scheduled Uptime**" means twenty-four (24) hours each day, seven (7) days per week, excluding regular maintenance windows between the hours of 1:00 a.m. and 5:00 a.m. Pacific Time on Sundays, or as otherwise agreed in writing by the Parties. Notwithstanding anything herein, Contractor shall ensure that the Software and Hosting Services remain Available For Use during the foregoing maintenance windows to the extent reasonably practicable. "**Downtime**" means the aggregate duration of Outages for the Software and Hosting Services during the applicable Scheduled Uptime during a calendar month. "**Outage**" means any time during which the Software and Hosting Services (or any portion thereof) is not Available For Use during a calendar month, measured from the earliest point in time that such Outage is or reasonably should be	In the event 99.9% Availability for the Software and Hosting Services is not achieved, but at least 99.6% Availability for the Software and Hosting Services is achieved, then the credits shall be incurred as follows: 5% of Monthly Fees for the first month, and 10% of Monthly Fees for the second consecutive month, and 15% of Monthly Fees for the third consecutive month and each consecutive month thereafter. In the event at least 99.6% Availability for the Software and Hosting Services is not achieved, then the credits shall be incurred as follows: 10% of Monthly Fees for the first month, and 20% of Monthly Fees for the second consecutive month, and 30% of Monthly Fees for the third consecutive month and each consecutive month thereafter. Contractor shall have an earnback opportunity with respect to Service Level Credits for the Hosting Services Availability service level as follows: In the event a Service Level Credit accrues because this Software and Hosting Services Availability level is not achieved in a given month, then

detected by Contractor, but in any event no later than the time the Outage actually occurred. An Outage is an Error. "**Unplanned Downtime**" shall mean an Outage that is not the result of a regularly scheduled or other scheduled maintenance window. "**Available For Use**" shall mean the ability of the Software and Hosting Services to be utilized or accessed by County as contemplated under the Agreement(s), including conformance to the Specifications, and without material degradation of performance. **"Error"** shall mean a failure of the Software or Hosting Services to conform to its Documentation, or with respect to the Software, a failure that impairs the performance of the Software.	in the event this Software and Hosting Services Availability level is achieved in the next three (3) consecutive months, Contractor will earnback the Service Level Credit, whether accrued or paid, for the initial Software and Hosting Services Availability level failure.

4.4 UNPLANNED DOWNTIME SERVICE LEVEL

Contractor shall track and report monthly to County each Unplanned Downtime. The Unplanned Downtime Service Level is set forth below.

Service Level Metric	Service Level Credits
No Unplanned Downtime Errors in any month	None
First Unplanned Downtime Error in any month	1% of Monthly Fee
Second Unplanned Downtime Error in any month	2% of Monthly Fee
Third Unplanned Downtime Error in any month	3% of Monthly Fee
Fourth or more Unplanned Downtime Error in any month	4% of Monthly Fee

4.5 SOFTWARE RESPONSE TIMES AND HOSTING SERVICES RESPONSE TIMES

Contractor represents and warrants that the Software Response Times for the Software and Hosting Services operating in the County IT environment between 8 a.m. and 5 p.m. ("**Peak Hours**") Pacific Time shall be:

Transaction	Service Level Metric	Service Level Credits
User login	8-10 seconds	3% of Monthly Fee
Search by name	3 seconds	3% of Monthly Fee
Search by ID	3 seconds	3% of Monthly Fee

"**Software Response Time**" and **"Hosting Services Response Time"** shall be measured in the production environments (as applicable) by a Contractor-supplied program, and by clock, and shall be measured to the nearest one-tenth of a second for each transaction, commencing from the entry of the last character (or keystroke or by clicking on the enter button) of the user's input until the first character of the next system prompt appears, the cursor moves to the next field, or the next first character of a responsive screen appears, whichever is appropriate, on the user's computer or terminal.

Tests of Software Response Time and Hosting Services Response Time shall be conducted by Contractor over any two (2) hour period during Peak Hours every ten (10) business day(s) using a representative number of logged-on computers or terminals for the selected two (2) hour period, and running a representative sampling of applications then installed. Non-interactive or batch jobs such as report compilation, statement production and claim form production will not be included in a Software Response Time test or Hosting Services Response Time test. During the Software Response Time test and the Hosting Services Response Time test, no other software shall be resident on or operating with the specified hardware.

Contractor agrees to provide, at no cost to County, measurement tools capable of directly making all measurements necessary to apply the Software Response Time warranty and Hosting Services Response Time warranty in this Section.

4.6 REPORTING SERVICE LEVEL

Contractor shall be responsible for measuring and monitoring Service Level performance and shall provide County with monthly reports showing Service Level performance during the reporting period at a level of detail sufficient, as determined by County, to verify Contractor's compliance with the applicable Service Levels. All monthly reports due under this Agreement are due on the tenth (10th) calendar day of the month following the month for which such report relates; provided, however, that if the tenth (10th) is a weekend or County holiday, such reports shall be due on the first (1st) County business day thereafter.

4.7 DATA RETURN SERVICE LEVEL

Contractor shall return all County Data in accordance with the requirements of this Agreement not later than thirty (30) calendar days after County's request. Contractor shall provide access to such County Data by a secure FTP site or

provide a copy of that data in a mutually agreed upon, commercially standard format.

Service Level Metric	Service Level Credits
All County Data returned within thirty (30) calendar days after County's request	$5,000 per calendar day late

4.8 SERVICE LEVEL AUDITS

County or its designee will have the right to audit Contractor's measurement, monitoring, and reporting on all Service Levels, including providing County with access to the data used by Contractor to calculate its performance against the Service Levels and the measurement and monitoring tools and procedures utilized by Contractor to generate such data for purposes of audit and verification.

4.9 MEETINGS

Contractor and County shall meet monthly (unless otherwise mutually agreed to by the Parties) to review the status of open Support Requests, and discuss trends and issues relating to Support Requests and approaches to reducing the number of Support Requests as well as improving both County and Contractor responses to such Support Requests.

4.10 ADDITIONS, DELETIONS, AND MODIFICATIONS OF SERVICE LEVELS

After the initial six (6) months following the Effective Date, County may add, modify, or delete Service Levels by sending written notice to Contractor at least forty-five (45) days in advance; provided that, the total number of such notices (which notices may contain multiple changes) sent by County pursuant to this Section 4.10 (Additions, Deletions, and Modifications of Service Levels) shall not exceed twenty (20) in any contract year.

Service Levels shall be added in accordance with the following:

(a) Where data exists for at least six (6) months from which measurements can be derived, County and Contractor shall review the measurement trends and the levels of quality that were attained during the measurement period and shall work together in good faith to mutually agree, and to establish the Service Level standard that Contractor will be required to meet; or

(b) Where no such data exists, the Parties shall attempt in good faith to mutually agree during a thirty (30) day period on a Service Level standard using industry standard measures or third party vendor advisory services.

5. SERVICE LEVEL FAILURES AND SERVICE LEVEL CREDITS

5.1 SERVICE LEVEL FAILURES

Failure to achieve any of the Service Levels described in Section 4 (Service Levels) of this Attachment shall constitute a "**Service Level Failure**" and Contractor shall be liable for the Service Level Credits in the amounts set forth in Section 4 (Service Levels). Contractor shall not be responsible for any Service Level Failure caused

solely by County or its agents. Contractor shall promptly notify County of any Service Level Failure.

5.2 SERVICE LEVEL CREDITS

Upon the occurrence of any Service Level Failure, Contractor shall issue to County a credit in the amount set forth in Section 4 (Service Levels) ("**Service Level Credit**"). If more than one (1) Service Level Failure has occurred in a single month, the sum of the corresponding Service Level Credits shall be credited to County. In no event will the aggregate of all Service Level Credits arising as a result of failures by Contractor to perform its System Maintenance and Support Services obligations in any month exceed fifteen percent (15%) of the amount of the Monthly Fees otherwise payable for the most recent three (3) month period except for instances of Service Level Credits associated with failures on "Critical" and "High" resolution time Service Levels and Data Return Service Level which will not exceed 100% of the amount of the said Monthly Fees. Contractor shall notify County in writing if County becomes entitled to a Service Level Credit, which notice shall be included in the monthly performance reports as described in this Attachment.

The total amount of Service Level Credits that Contractor will be obligated to pay to County, with respect to Service Level Failure(s) occurring each month shall be reflected on the invoice issued for the twelfth month of each Payment Year ("Monthly Invoice"). The Monthly Invoice shall reflect the Service Level Credits for the preceding eleven months, on a monthly basis, and such sum shall be deducted from the County's payment of the Monthly Invoice to the Contractor. In the event the total amount of Service Level Credits in the Monthly Invoice results in no payment being due by County or a credit to County, County shall, at its sole discretion: (i) require that Contractor remit immediately to County any amount due to County; or (ii) credit such amount to the County's invoice for the next Payment Year. Any Service Level Credits due for the twelfth month of each Payment Year shall be subject to the immediately preceding sentence.

5.3 TERMINATION FOR CHRONIC SERVICE LEVEL FAILURES

In addition to its termination rights under the Agreement, County may, in its sole discretion, terminate the Agreement without further obligation to Contractor in the event Contractor fails to achieve any of the required Service Levels two (2) times in any two (2) consecutive month period, or three (3) times in any five (5) month period.

6. CORRECTIVE ACTION PLAN

In the event two (2) or more Critical Support Requests occur in any thirty (30) calendar day period during the term of the Agreement, Contractor shall promptly investigate the root causes of such support issues and shall provide to County within five (5) business days of the occurrence of the second Critical Support Request an analysis of such root causes and a proposed corrective action plan for County's review, comment, and approval (the "**Corrective Action Plan**"). The Corrective Action Plan shall include, at a minimum: (a) a commitment by Contractor to devote the appropriate time, skilled Contractor personnel, systems

support and equipment, and/or resources to remedy, and prevent any further occurrences of Critical Support Request issues; and (b) time frames for implementation of the Corrective Action Plan. There shall be no additional charge (other than those fees set forth in this Agreement) for Contractor's implementation of such Corrective Action Plan in the time frames and manner set forth in the Corrective Action Plan.

7. SERVICE OUTAGES

7.1 SCHEDULED OUTAGES

Contractor shall notify County of scheduled Outages at least twenty-four (24) hours in advance, and such Outages shall be scheduled between the hours of 1:00 a.m. and 5:00 a.m. Pacific Time on Sundays. Schedule Outages shall occur no more frequently than once per calendar month. For avoidance of doubt, scheduled Outages that fall within the above maintenance window timeframes are excluded from the Availability calculation. Contractor may request extensions of scheduled Outages beyond the aforementioned hours and with Approval by County, which may not be unreasonably withheld or delayed. Unscheduled Outages (as described below) and extensions of scheduled Outages as described above are not excluded from the Availability Service Level set forth above (i.e., an Outage, regardless of its cause, except due to the actions of County and its agents, shall not relieve Contractor of its obligation to achieve the Service Levels set forth herein).

7.2 UNSCHEDULED OUTAGES

Unscheduled Outages are caused by loss of connectivity to the Internet, or by failure of a Contractor service. In cases where a destination is not available, or unacceptable service is reported, Contractor will attempt to determine the source of the Error and report its findings to County.

7.3 CORRECTIVE ACTION

Immediately upon notice of an Outage, Contractor personnel shall:

- Confirm (or disconfirm) the Outage by a direct check of the facility;
- If confirmed, take such action as may restore the Service, or, if determined to be a telecommunications company problem, open a trouble ticket with the telecommunications company carrier;
- Notify the person designated by County by telephone or voicemail according to predefined procedures that an Outage has occurred, providing such details as may be available, including the trouble ticket number if appropriate and time of Outage;
- Work the Error until Resolution, escalating to management or to engineering as required; and
- Promptly notify County of final Resolution, along with any pertinent findings or action taken.

8. SECURITY BREACHES

In the event of an attack or threatened or suspected breach of security against the Hosting Services and/or Server, Contractor will take whatever reasonable steps that are necessary to halt such action, including taking the Hosting Services down. Contractor will immediately contact the person designated by County to discuss what measure to take. However, if time is critical, action may be required before the contact can be reached. Contractor's actions will include, as appropriate:

- Confirm the threat;
- Deny access from the source of the attack;
- Investigate the extent of the damage, if any;
- Back-up the affected systems and those suspected to be affected;
- Strengthen defenses everywhere, not just the suspected path that the attacker used;
- Contact the ISP where the threat or attack originated and/or law enforcement to work with Contractor's security team;
- Produce an error report within twenty-four (24) hours detailing Contractor's findings; and
- Re-instate the denial of access after a set time period, but continue to monitor traffic from that source until risk of further attacks is deemed to be minimized.

Exhibit B-1
PRICING SCHEDULE

This Exhibit B-1 sets forth the pricing and payment terms for the work to be provided by Contractor pursuant to the Agreement, including Exhibit A-1 (Statement of Work). Payments for all rendered services shall be made in accordance with Paragraph 9 (Invoices and Payments) of the Agreement.

1. CONTRACT SUM

Contract Sum shall be County's maximum obligation by Payment Year (PY) during the entire term of the Agreement, and shall include the following:

A. System Maintenance and Support Fees;
B. Third Party Software License Fees;
C. Hosting Fees;
D. Training Fees;
E. Travel Expenses; and
F. Pool Dollars for Optional Work.

Table 1 – Contract Sum

Payment Year (PY)[1]	System Maintenance and Support[2]	Third Party Software Licenses[2]	Hosting[2]	Training	Travel Expenses	Pool Dollars
2006-2007			$42,000			
2007-2008			$42,000			
2008-2009			$42,000			
2009-2010			$42,000	$20,000	$9,600	
2010-2011	$75,794	$19,800	$45,856			
2011-2012	$75,794	$19,800	$45,856			
2012-2013	$75,794	$19,800	$45,856			
2013-2014	$75,794	$19,800	$45,856			
2014-2015	$75,794	$19,800	$45,856			
2015-2016	$83,373	$19,800	$50,442			
2016-2017	$83,373	$19,800	$50,442			
2017-2018	$83,373	$19,800	$50,442			
Totals (2006-2018)	**$629,089**	**$158,400**	**$548,606**	**$20,000**	**$9,600**	**$76,807**
Contract Sum for Period from Effective Date to July 31, 2018						**$1,442,502**

[1] Payment Year: August 1 through July 31.
[2] Total fees are broken down by County Facility programs and attributed to each Facility for all purposes as follows: (a) LAC+USC Medical Center (LAC+USC MC): 60% of total fees; (b) Harbor-UCLA Medical Center (H-UCLA MC): 30% of total fees; (c) Olive View-UCLA Medical Center (OV-UCLA MC): 10% of total fees.

Payment Year (PY)[1]	System Maintenance and Support[2]	Third Party Software Licenses[2]	Hosting[2]	Training	Travel Expenses	Pool Dollars
2018-2019	$83,373	$19,800	$50,442			
Totals (2006-2019)	**$712,462**	**$178,200**	**$599,048**	**$20,000**	**$9,600**	**$76,807**
Contract Sum from Effective Date to July 31, 2019						**$1,596,117**
2019-2020	$83,373	$19,800	$50,442			
Totals (2006-2020)	**$795,835**	**$198,000**	**$649,490**	**$20,000**	**$9,600**	**$76,807**
Contract Sum from Effective Date to July 31, 2020						**$1,749,732**

I. System Maintenance and Support Fees

Contractor shall provide System Maintenance and Support Services for the System at the fees listed in Table 1.

II. Third Party Software License Fees

Contractor shall provide Third Party Software Licenses at the fees listed in Table 3 below:

Table 2 - Third Party Software License Fees

Payment Year	Annual Amion OnCall License Fees	Annual Oracle Database License Fees	Annual Third Party Software License Fees
2010-2011	$19,800	$0	$19,800
2011-2012	$19,800	$0	$19,800
2012-2013	$19,800	$0	$19,800
2013-2014	$19,800	$0	$19,800
2014-2015	$19,800	$0	$19,800
2015-2016	$19,800	$0	$19,800
2016-2017	$19,800	$0	$19,800
2017-2018	$19,800	$0	$19,800
2018-2019	$19,800	$0	$19,800
2019-2020	$19,800	$0	$19,800
Maximum Total – Third Party Software License Fees	**$198,000**	**$0**	**$198,000**

III. Training Fees

Training Fees for consulting services and/or end-user training shall be calculated at a fixed hourly rate of shall be $85.00 per hour (hereinafter "Professional Services Rate").

IV. Travel Expenses

Travel expenses related to training County staff, system maintenance and/or support for system interfaces shall include the actual expenditures made or incurred by Contractor in the performance of services under this Agreement. Travel Expenses shall be passed through without mark-up, and, for applicable travel shall be in accordance with County's Travel Reimbursement Guidelines.

V. Pool Dollars

Optional Work shall be provided by Contractor to County in accordance with the Agreement, including Exhibit A-1 (Statement of Work). County's payment for Optional Work shall not exceed the maximum fixed price agreed to by County and Contractor.

Any Professional Services provided by Contractor to County as part of Optional Work under the Agreement shall be calculated at the Professional Services Rate. The fixed hourly rate shall not increase during the term of the Agreement.

The maximum amount of Pool Dollars that may be expended under this Agreement for Optional Work shall not exceed the amount listed in Table 1.

EXHIBIT C-1

CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT

CONTRACTOR NAME: MYEVALUATIONS.COM INC. Agreement No.: H-702120

GENERAL INFORMATION:

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

CONTRACTOR ACKNOWLEDGEMENT:

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

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

CONFIDENTIALITY AGREEMENT:

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

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

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

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

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

SIGNATURE: _____ DATE: 06 / 01 / 2015

PRINTED NAME: David P Melamed

POSITION: CEO

EXHIBIT D-1

CONTRACTOR'S EEO CERTIFICATION

MYEVALUATIONS.COM, INC.
Contractor Name

326 #. 65th Street, Suite 234, New York, NY 10065
Address

20-1965328
Internal Revenue Service Employer Identification Number

GENERAL CERTIFICATION

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

CONTRACTOR'S SPECIFIC CERTIFICATIONS

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

David P Melamed
Authorized Official's Printed Name and Title

Authorized Official's Signature

June 1, 2015
Date