



County of Los Angeles  
**CHIEF EXECUTIVE OFFICE  
OPERATIONS CLUSTER**

SACHI A. HAMAI  
Chief Executive Officer

**DATE:** December 7, 2017  
**TIME:** 1:00 p.m.  
**LOCATION:** Kenneth Hahn Hall of Administration, Room 830

**AGENDA**

Members of the Public may address the Operations Cluster on any agenda item by submitting a written request prior to the meeting.  
Two (2) minutes are allowed for each item.

1. Call to order and introductions – Kieu-Anh King/Gevork Simdjian (5 minutes)
2. Public Comment (2 minutes each speaker)
3. **PRESENTATION ITEMS:**
  - A) **Operations Cluster Meeting Protocols** (30 minutes)  
SD3 – Kieu-Anh King
  - B) **Board Letter:**  
**CAD SYSTEM PURCHASE ORDER** (15 minutes)  
LASD – Dean Gialamas
  - C) **Board Memo:**  
**INDIGENT DEFENSE CASE MANAGEMENT SYSTEM SOLE SOURCE**  
(15 minutes)  
CEO CIO – Peter Loo
  - D) **Board Memo:**  
**COUNTY WATERWORKS IVR SYSTEM SOLE SOURCE** (10 minutes)  
DPW – Jesse Juarros
  - E) **Board Letter:**  
**MUSIC CENTER PLAZA REFURBISHMENTS AND UPDATED  
OPERATING AGREEMENT** (15 minutes)  
CEO CP – Joyce Chang and Peter Burgis
  - F) **Board Memo:**  
**FINANCIAL ADVISOR SOLE SOURCE EXTENSION** (5 minutes)  
TTC – Joe Kelly and Keith Knox

CONTINUED ON PAGE 2

4. CALENDAR FORECAST FOR 12/14/17:  
(5 minutes)

A) **Board Letter:**

**RECOMMENDATIONS REGARDING THE REGULATION OF  
COMMERCIAL MEDICAL AND ADULT-USE CANNABIS IN  
UNINCORPORATED AREAS**

CEO – Joseph Nicchitta or designee

B) **Board Memo:**

**NOTIFICATION OF INTENT TO NEGOTIATE POWER PURCHASE  
AGREEMENTS WITH SUNPOWER CORPORATION, SYSTEMS**

ISD – Scott Minnix or designee

C) **Board Memo:**

**RESPONSE TO BOARD MOTION ON SHERIFF'S DEPARTMENT  
COMPUTER-AIDED DISPATCH REPLACEMENT**

CEO CIO – Peter Loo

5. Adjournment

OPERATIONS CLUSTER MEETINGS/BOARD LETTER FILING DEADLINES

The Operations Cluster meetings are held every Thursday from 1:00 p.m. to 2:30 p.m. in room #830

Target BOS Agenda Date	Submit Title of Item to CEO by 10 a.m.	Submit Docs to CEO by close of business day	Present at OPS Cluster Meeting	Board Letter Filing Date	Board Letter Filing Time	Target BOS Agenda Date	Submit Title of Item to CEO by 10 a.m.	Submit Docs to CEO by close of business day	Present at OPS Cluster Meeting	Board Letter Filing Date	Board Letter Filing Time
1/9/18	12/6/17	12/8/17	12/21/17	12/28/17	9:00 a.m.	7/31/18	6/27/18	6/29/18	7/12/18	7/19/18	Noon
1/16/18	12/6/17	12/8/17	12/21/17	1/4/18	Noon	8/7/18	7/3/18	7/6/18	7/19/18	7/26/18	Noon
1/23/18 PH	12/27/17	12/29/17	1/11/18	1/11/18	9:00 a.m.	8/14/18	7/11/18	7/13/18	7/26/18	8/2/18	Noon
1/30/18	12/27/17	12/29/17	1/11/18	1/18/18	Noon		7/18/18	7/20/18	8/2/18		
2/6/18	1/3/18	1/5/18	1/18/18	1/25/18	Noon		7/25/18	7/27/18	8/9/18		
2/13/18	1/10/18	1/12/18	1/25/18	2/1/18	Noon	9/4/18	8/1/18	8/3/18	8/16/18	8/23/18	Noon
2/20/18	1/17/18	1/19/18	2/1/18	2/8/18	Noon	9/11/18	8/1/18	8/3/18	8/16/18	8/30/18	9:00 a.m.
2/27/18 PH	1/24/18	1/26/18	2/8/18	2/15/18	9:00 a.m.	9/18/18	8/22/18	8/24/18	9/6/18	9/6/18	Noon
3/6/18	1/31/18	2/2/18	2/15/18	2/22/18	Noon	9/25/18 PH	8/22/18	8/24/18	9/6/18	9/13/18	Noon
3/13/18	2/7/18	2/9/18	2/22/18	3/1/18	Noon	10/2/18	8/29/18	8/31/18	9/13/18	9/20/18	Noon
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3/27/18 PH	2/21/18	2/23/18	3/8/18	3/15/18	Noon	10/16/18	9/12/18	9/14/18	9/27/18	10/4/18	9:00 a.m.
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4/24/18 PH	3/21/18	3/23/18	4/5/18	4/12/18	Noon	11/13/18	10/10/18	10/12/18	10/25/18	11/1/18	Noon
5/1/18	3/28/18	3/30/18	4/12/18	4/19/18	Noon	11/20/18	10/17/18	10/19/18	11/1/18	11/8/18	9:00 a.m.
5/8/18	3/28/18	3/30/18	4/12/18	4/26/18	Noon	11/27/18 PH	10/24/18	10/26/18	11/8/18	11/15/18	Noon
5/15/18	4/11/18	4/13/18	4/26/18	5/3/18	Noon	12/4/18	10/31/18	11/2/18	11/15/18	11/21/18	9:00 a.m.
5/22/18 PH	4/18/18	4/20/18	5/3/18	5/10/18	Noon	12/11/18	10/31/18	11/2/18	11/15/18	11/29/18	Noon
5/29/18	4/25/18	4/27/18	5/10/18	5/17/18	Noon	12/18/18	11/14/18	11/16/18	11/29/18	12/6/18	Noon
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6/19/18	5/16/18	5/18/18	5/31/18	6/7/18	Noon	1/8/19	12/5/18	12/7/18	12/20/18	12/27/18	Noon
6/26/18 PH	5/23/18	5/25/18	6/7/18	6/14/18	Noon	1/15/19	12/12/18	12/14/18	12/27/18	1/3/19	Noon
7/3/18	5/30/18	6/1/18	6/14/18	6/21/18	Noon	1/22/19 PH	12/19/18	12/21/18	1/3/19	1/10/19	Noon
7/10/18	6/6/18	6/8/18	6/21/18	6/28/18	9:00 a.m.	1/29/19	12/26/18	12/28/18	1/10/19	1/17/19	9:00 a.m.
7/17/18	6/13/18	6/15/18	6/28/18	7/5/18	Noon	2/5/19	1/2/19	1/4/19	1/17/19	1/24/19	Noon
7/24/18 PH	6/20/18	6/22/18	7/5/18	7/12/18	Noon	2/12/19 PH	1/9/19	1/11/19	1/24/19	1/31/19	Noon

- PH Public Hearing Board Meeting (4th Tuesday of every month)
- No Board Meeting or Ops Cluster Meeting.
- Wednesday Board Letter Filing Date (due to Holiday on 11/23/18)
- Submit Item Title/Documents same day (due to Holiday on 11/23/18).
- Present and File Board Letter the same date; must request filing extension.

Note: The Board of Supervisors will be in Washington D.C. from 4/16/18 through 4/20/18.

Cancelled Meetings			
OPS		BOS	
12/28/17	8/23/18	1/2/18	8/28/18
1/4/18	8/30/18	4/17/18	12/25/18
4/19/18	11/22/18	8/21/18	1/1/19

The agenda along with the documents can be found at: <http://ceo.lacounty.gov/agendas.htm>

All dates indicated above are subject to change and/or cancellations.

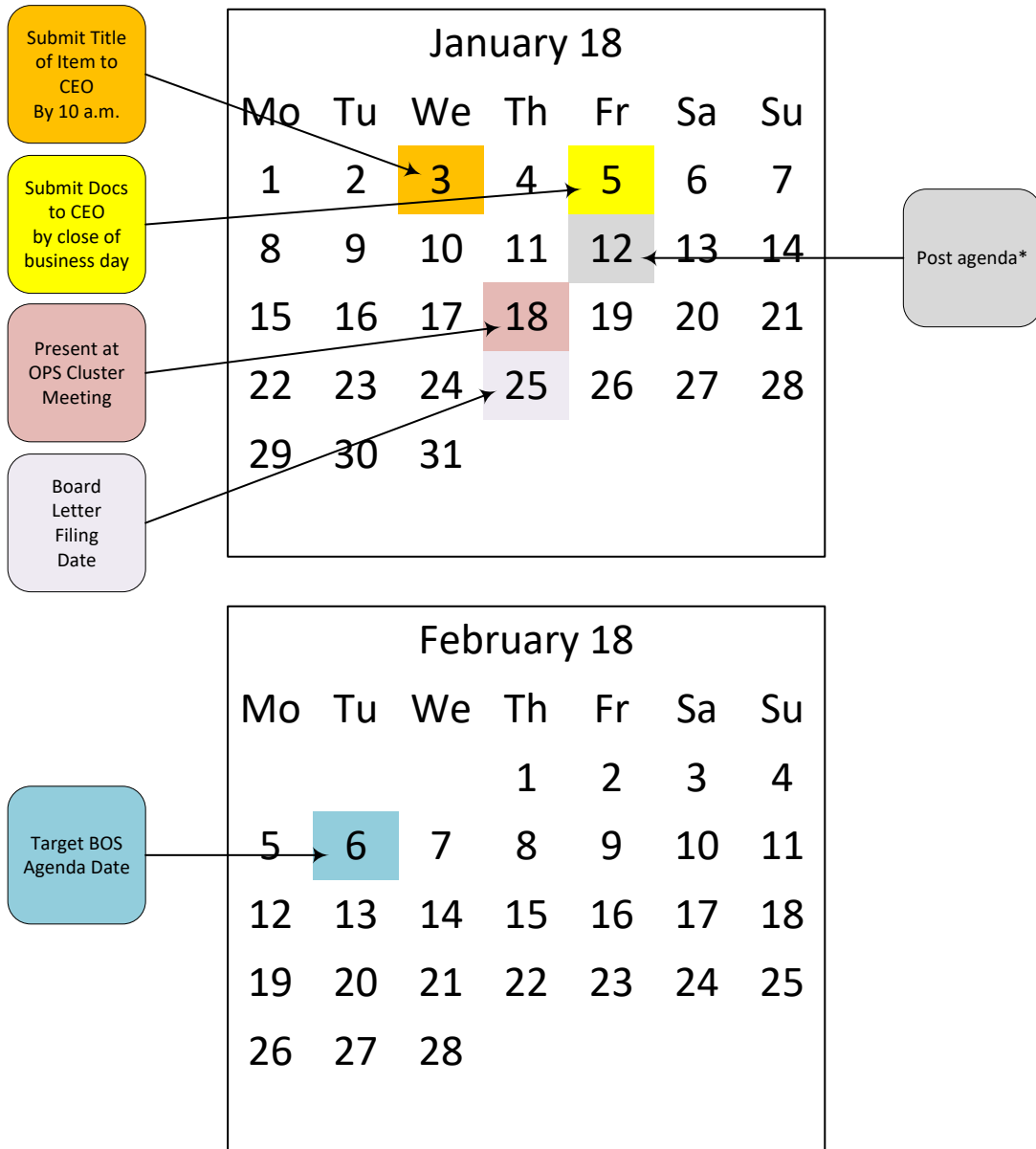
The Board letter filing deadlines are based on the Board of Supervisors' Board letter filing calendar: <http://calendar.lacounty.gov/calendar/ViewNonBannerMonth.html>

# OPERATIONS CLUSTER MEETINGS/BOARD LETTER FILING DEADLINES

## FY 2018-2019

### SAMPLE

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\*The agenda along with the documents can be found at the following link:

<http://ceo.lacounty.gov/agendas.htm>

**DRAFT**

December 19, 2017

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:

**AUTHORIZE INTERNAL SERVICES DEPARTMENT TO ISSUE A SOLE SOURCE  
PURCHASE ORDER TO HEWLETT PACKARD ENTERPRISE, RQN# 18003623  
(ALL DISTRICTS) (3 VOTES)**

**SUBJECT**

The Los Angeles County (County) Sheriff's Department (Department) is requesting the Board to authorize the Internal Services Department (ISD), in its capacity as the County's Purchasing Agent (CPA), to issue a Sole Source Purchase Order (PO) to Hewlett Packard Enterprise (HPE) in the amount of \$2,406,172.

**IT IS RECOMMENDED THAT THE BOARD:**

Authorize ISD, in its capacity as the CPA, to proceed with a confirming PO to HPE for Tandem NonStop annual software licenses in the amount of \$2,406,172.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

A request for a quote was made in July of 2016, however HPE did not provide the Department with the renewal quotes for software licenses that the Computer Aided Dispatch (CAD) software operates on until September 27, 2016. This resulted in the late submission of the purchase request. HPE is the sole provider of these licenses, which allows the Department to operate their CAD system. The CAD system serves as the command and control communications system for the entire Department. The CAD system interfaces with vehicle based mobile data terminals/computers, the 65 channel

ultra-high frequency radio system, the emergency 911 telephone system, and California State and County law enforcement databases. The CAD system software includes message switching, transaction processing, and application programs that provide process control for calls-for-service, dispatching of field units, maintaining status, and recording contract minutes.

#### Follow-up Actions

The Department recognizes this as a confirming/retroactive PO and is currently working to address this issue in order to avoid this from occurring in the future. The Department will make a presentation to the Retroactive Contract Review Committee for disposition and approval of corrective action.

#### Implementation of Strategic Plan Goals

The services provided under this PO support the County's Strategic Plan, Goal III, Strategy III.3, Pursuing Operational Effectiveness, Fiscal Responsibility and Accountability. This software is required for the Department's CAD system, which is the mission critical system supporting the 911 telephone system and dispatching of calls-for-service. This software has been in use by the Department since the deployment of the CAD system in 1989.

#### FISCAL IMPACT/FINANCING

There will be no impact to net County cost. The total estimated cost for the maintenance of the CAD licensing will be funded from the Department's General Fund Service and Supplies Budget. This funding has been included in the Department's Fiscal Year 2017-18 Supplemental Budget.

#### FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The CAD system helps the Department comply with its obligations to log Department activity.

The Chief Information Office (CIO) reviewed this Board Letter and recommends approval. The CIO determined this recommended action contains no new Information Technology matters and/or no changes to the terms and conditions of the Agreement requiring an analysis. Therefore, no formal CIO analysis is required.

**CONTRACTING PROCESS**

The purchase of software falls under the statutory authority of the CPA. This purchase will be requisitioned through and accomplished in accordance with the County's purchasing policies and procedures.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The Department would be severely crippled in its day to day operations of providing law enforcement services to the communities of the County. The inability to operate the Departments CAD system would have a cascading catastrophic effect on radio communications, response times for calls-for-service, delays in obtaining law enforcement related information, as well as the submission, tracking, logging, and reporting of our operations in the field, court services, and custody facilities.

**CONCLUSION**

To avoid future occurrence, the Department will proactively obtain a price quote from the vendor two to three months prior to the expiration date of the licensing contract, and will also prepare as much of the renewal paperwork as possible in advance of the expiration of these licenses.

Should you have any questions, please contact Captain Eliezer Vera, Communications and Fleet Management Bureau, at (323) 881-8001.

Sincerely,

JIM McDONNELL  
SHERIFF

JM:EV:ts  
(Technology and Support Division)

- c: Board of Supervisors, Justice Deputies  
Lori Glasgow, Executive Officer, Board of Supervisors  
Sachi A. Hamai, Chief Executive Officer  
Sheila Williams, Senior Manager, Chief Executive Office (CEO)  
Rene Phillips, Manager, CEO  
Jocelyn Ventilacion, Principal Analyst, CEO  
Anna Petrosyan, Analyst, CEO  
Mary C. Wickham, County Counsel  
Michele Jackson, Principal Deputy County Counsel  
Elizabeth D. Miller, Chief Legal Advisor, Legal Advisory Unit  
Scott Minnix, Director, Internal Services Department (ISD)  
Dave Chittenden, Chief Deputy Director, ISD  
Gerald R. Plummer, Division Manager, ISD  
Jacques A. La Berge, Undersheriff  
Jill Serrano, Assistant Sheriff  
Warren R. Asmus, Chief of Staff  
Dean M. Gialamas, Division Director, Technology and Support Division (TSD)  
Conrad Meredith, Division Director, Administrative Services Division (ASD)  
Henry Arevalo, Assistant Division Director, TSD  
Eliezer Vera, Captain, Communications and Fleet Management Bureau  
Mark A. Glatt, Lieutenant, Communications and Fleet Management Bureau  
Andrew M. Dahring, Sergeant, ASD  
India M. Inez, Deputy, ASD  
Thea Sheridan, Administrative Services Manager, TSD  
(Fiscal Admin – HPE-Tandem NonStop 12-19-17)



## SOLE SOURCE CHECKLIST

Check (✓)	<b>JUSTIFICATION FOR SOLE SOURCE CONTRACTS</b> Identify applicable justification and provide documentation for each checked item.
✓	➤ Only one bona fide source (monopoly) for the service exists; performance and price competition are not available. Monopoly is an "Exclusive control of the supply of any service in a given market. If more than one source in a given market exists, a monopoly does not exist."
	➤ Compliance with applicable statutory and/or regulatory provisions.
	➤ Compliance with State and/or federal programmatic requirements.
	➤ Services provided by other public or County-related entities.
	➤ Services are needed to address an emergent or related time-sensitive need.
	➤ The service provider(s) is required under the provisions of a grant or regulatory requirement.
	➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.
	➤ Maintenance service agreements exist on equipment which must be serviced by the original equipment manufacturer or an authorized service representative.
	➤ It is more cost-effective to obtain services by exercising an option under an existing contract.
	➤ It is in the best economic interest of the County (e.g., significant costs to replace an existing system or infrastructure, administrative cost savings and excessive learning curve for a new service provider, etc.) In such cases, departments must demonstrate due diligence in qualifying the cost-savings or cost-avoidance associated with the best economic interest of the County.

*Sheel Will*

\_\_\_\_\_  
Chief Executive Office

11/21/17  
\_\_\_\_\_  
Date

## SOLE SOURCE REQUEST QUESTIONNAIRE

It is the policy of the County to solicit the maximum number of bids/proposals for a commodity or service from the largest relevant market and to select vendors on a competitive basis.

There are certain acquisitions which, when in the best interest of the County, can only be obtained from a sole source. Sole source acquisitions must be justified in sufficient detail to explain the basis for suspending the usual competitive procurement process.

**NOTE:** Please refer to Procedure P-3700 of the ISD Purchasing Policies and Procedures Manual.

### **DOCUMENTATION FOR SOLE SOURCE JUSTIFICATION MUST INCLUDE RESPONSES TO THE FOLLOWING QUESTIONS:**

1. What is being requested?  
Hewlett Packard Enterprise (HPE) NonStop software license renewal.
2. Why is the product needed – how will it be used?  
*This software is required for the Sheriff's Department Computer-Aided Dispatch (CAD) system, which is the mission critical system supporting 9-1-1 and dispatching of citizen's calls for service to deputies in patrol cars. This software has been in use by the Sheriff's Department since the deployment of the CAD system in 1989.*
3. Is this "brand" of product the only one that meets the user's requirements? If yes, what is unique about the product?  
*Yes, only HPE supplies this product, which was customized for the Sheriff's Department. It is the only product that can meet the Department's requirements for the existing CAD system.*
4. Have other products/vendors been considered? If yes, which products/vendors have been considered and how did they fail to meet the user's requirements?  
*No.*
5. Will purchase of this product avoid other costs, e.g. data conversion, etc. or will it incur additional costs, e.g. training, conversion, etc.?  
*Yes. Since the product has been in use since 1989, the Sheriff's Department would like to maintain the use of the same product until a replacement CAD system is in place. This would eliminate any unnecessary development, testing, and training costs.*
6. Is the product proprietary or is it available from various dealers? Have you verified this?  
*The product is proprietary with HPE.*
7. Reasonableness of Price: Does the County obtain a percentage discount or special discount not available to the private sector?  
*Yes, the price is based upon number of hosts and type of software for each host at each site. The vendor is offering additional discounts for local government.*

8. What is the dollar value of existing equipment and the Purchase Order No. for the existing equipment?

*The existing equipment and software was acquired in 1989 as part of a large system procurement for both a radio and dispatching system. The value of the dispatching system hardware and software at the time of purchase was not specifically broken out in the \$57 million dollar contract. An estimate for the dispatching portion of the procurement is between \$15 million and \$20 million.*

*Purchase order P40283 in the amount of \$1,200,000.00 was issued for License and Software Maintenance for FY 2007/2008.*

*Purchase order Q40114 in the amount of \$1,437,000.00 was issued for License and Software Maintenance for FY 2009/2010.*

*Purchase order PO-SH-11321277-3 in the amount of \$1,511,070.65 was issued for License and Software Maintenance for FY 2010/2011.*

*Purchase order PO-SH-12321073-3 in the amount of \$1,587,827.78 was issued for License and Software Maintenance for FY 2011/2012.*

*Purchase order PO-SH-13322199-1 in the amount of \$1,698,990.02 was issued for License and Software Maintenance for FY 2012/2013.*

*Purchase order PO-SH-14321931-1 in the amount of \$1,831,884.24 was issued for License and Software Maintenance for FY 2013/2014.*

*Purchase order PO-SH-15321734-1 in the amount of \$2,105,344.68 was issued for License and Software Maintenance for FY 2014/2015.*

*Purchase order PO-SH-16321052-1 in the amount of \$2,367,423.60 was issued for License and Software Maintenance for FY 2015/2016..*



## Hewlett Packard Enterprise

January 18, 2017

Peggy Sun  
1277 North Eastern Avenue  
Los Angeles CA 90063

This letter is to acknowledge that the HPE NonStop line of computer equipment and its software suite including the NonStop Kernel (NSK) operating system, are available for hardware purchase and software license exclusively from HPE directly; HPE has no authorized government resellers for this specific line of equipment

Sincerely yours.

A handwritten signature in black ink, appearing to read "Jeff Skinner".

Jeff Skinner  
Director – Americas NonStop Sales



SACHI A. HAMAI  
Chief Executive Officer

FESIA A. DAVENPORT  
Assistant Chief Executive Officer

WILLIAM S. KEHOE  
Chief Information Officer

December 15, 2017

County of Los Angeles  
**CHIEF EXECUTIVE OFFICE**  
Chief Information Office

Los Angeles World Trade Center, Suite 188  
350 South Figueroa Street, Los Angeles, California 90071  
(213) 253-5600

Board of Supervisors  
HILDA L. SOLIS  
First District

MARK RIDLEY-THOMAS  
Second District

SHEILA KUEHL  
Third District

JANICE HAHN  
Fourth District

KATHRYN BARGER  
Fifth District

To: Supervisor Mark Ridley-Thomas, Chairman  
Supervisor Hilda L. Solis  
Supervisor Sheila Kuehl  
Supervisor Janice Hahn  
Supervisor Kathryn Barger

From: William S. Kehoe  
Chief Information Officer

Subject: **ADVANCE NOTIFICATION OF INTENT TO ENTER INTO SOLE SOURCE NEGOTIATIONS WITH VERTIBA, LLC FOR INDIGENT DEFENSE CLIENT CASE MANAGEMENT SYSTEMS AND WITH PUBLIC CONSULTING GROUP FOR CLIENT CASE MANAGEMENT SYSTEM CONSULTING SERVICES**

**SUBJECT**

This letter provides advance notification to your Board that the Chief Information Officer (CIO), on behalf of the Alternate Public Defender (APD), Los Angeles County Bar Association (LACBA), and the District Attorney's Office (DA), intends to enter into the Sole Source negotiations without engaging in a competitive solicitation process; 1) one Sole Source Agreement will be with Vertiba, LLC for providing professional services for development and implementation of a Case Management System for each referenced organization. 2) one Sole Source Agreement with PCG to provide project management, fit-gap analysis and consulting services for implementation of a case management system for each referenced organization.

**BACKGROUND**

On October 11, 2016, the Board of Supervisors approved a motion which included; directing the Public Defender and Alternate Public Defender to implement a new

integrated case management system on a common case platform for the juvenile indigent defense population, within 18 months of board approval of the selected vendor.

On October 26, 2016, in response to the board motion, Chief information Office (CIO), in consultation with Public defender and Alternate Public defender developed an approach to leverage PD's current solicitation for an integrated case management system based on common platform.

On October 10, 2017, the Board of Supervisors approved an agreement with Vertiba LLC for implementation of a case management system for PD and approved an amendment with Public Consulting Group (PCG), the current consultant hired by PD, to provide project management services and assist PD with the implementation of an integrated case management system.

### **SOLE SOURCE JUSTIFICATION**

The Contract with Vertiba and PCG, is not a Proposition "A" contract since the services provided under the Contract will not displace County employees. Services cannot be performed by the individual County departments due to the need for specialized skills.

The APD and LACBA have reviewed and confirmed that there is significant commonality with PD's use cases and business requirements. Based on this, the CIO is recommending an approach to use the PD's Client Case Management System (CCMS) as a baseline for APD and LACBA case management systems to be implemented on the same software platform. Additionally, Vertiba, the PD's system integrator, is the most qualified vendor to implement the APD's and LACBA's case management systems.

The DA has also reviewed PD's requirements for CCMS and determined that there are sufficient common requirements to proceed with a fit-gap analysis and evaluate the feasibility of replacing the DA's legacy case management system on the same common platform.

PCG has been engaged with the Public Defender's office since 2013 and has gained a tremendous amount of knowledge about PD and APD business processes by interviewing staff and gathering their business and technical requirements. PCG has also been retained by PD for project management and change management services to implement CCMS.

Due to PCG's expanded business and technical knowledge of CCMS gained during their requirements gathering process, PCG is uniquely positioned to assist APD, DA and the Bar Association as it pursues the implementation of the Case Management System (CMS).

Board of Supervisors  
December 8, 2017  
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Pursuant to Board policy, the CIO will initiate sole source negotiations with Vertiba and PCG in four weeks, unless otherwise instructed by the Board.

Should additional information be requested, you may contact me or your staff may contact Peter Loo, Chief Deputy at 213-253-5600 or [ploo@cio.lacounty.gov](mailto:ploo@cio.lacounty.gov).

SH:WK:PL:fn

- c: Board of Supervisors, Operations Cluster Deputies  
Board of Supervisors, Justice Deputies  
Lori Glasgow, Executive Officer, Board of Supervisors  
Sachi A. Hamai, Chief Executive Officer  
Sheila Williams, Senior Manager, Chief Executive Office (CEO)  
Rene Phillips, Manager, CEO  
David Ruan, Lead Budget Analyst, CEO  
Mary C. Wickham, County Counsel  
Victoria Mansourian, Principal Deputy County Counsel  
Jordan Yerian, Division Chief, Public Defender  
Cyn Yamashiro, Directing Attorney, Independent Juvenile Defender, LACBA  
Ezekiel P. Perlo, Directing Attorney, Independent Adult Defender, LACBA

~~October 11~~ November 29, 2017

TO: Each Supervisor  
FROM: Mark Pestrella  
Director of Public Works

**ADVANCE NOTIFICATION- INTENT TO NEGOTIATE WITH VENDOR AND SUBMIT REQUEST TO AWARD A SOLE-SOURCE CONTRACT AMENDMENT WITH N. HARRIS COMPUTER CORPORATION TO UPGRADE THE INTERACTIVE VOICE RESPONSE CUSTOMER SERVICE SYSTEM FOR LOS ANGELES COUNTY WATERWORKS DISTRICTS**

In compliance with Board Policy 5.100, which mandates advance notification to the Board prior to commencing negotiations for sole-source contracts, this memorandum is to advise the Board of Public Works' intent to commence contract negotiations to enter into a sole-source contract amendment with N. Harris Computer Corporation (N. Harris) for an upgrade to the Los Angeles County Waterworks Districts' (Districts) Interactive Voice Response (IVR) program of the automated customer service system for an estimated not-to-exceed cost of \$220,000, including contingencies.

The duration of the proposed amendment would be up to 8 years from the date of execution, which would include an initial term of 3 years for the IVR upgrade and maintenance and a 5-year renewal option for maintenance, if exercised, consistent with the remaining potential contract term of the Districts' existing contract with N. Harris.

The funding for the amendment would be financed from the Fiscal Year 2017-18 Waterworks District General Fund Budget. Financing for subsequent years would be made available through the annual budget process.

**Background**

In February 2009, the Board approved a contract for a Comprehensive Customer Information System (CIS) Solution with N. Harris for a maximum contract amount of \$2.75 million and two 5-year renewal options for maintenance service at an annual cost of \$146,000. The CIS contract is currently in the second year of the first 5-year renewal option. The Paymentus IVR was installed as part of the original CIS contract and maintenance is ongoing with N. Harris through their subcontractor, Paymentus. Under this amendment, the IVR would be upgraded at an estimated initial cost of \$56,000 for migration to the cloud, systems integration, and software configuration and an additional cost of approximately \$164,000 for maintenance/support for the remaining contract term, including the optional 5-year renewal, if exercised.



IVR is an interactive voice response software service that provides the Districts' customers with the ability to access customer account information, electronically pay water bills, and update customer information. IVR enables the Districts' staff to administer customer notifications and manage/enforce customer payment options.

The existing on-premises IVR has reached end of life. Hardware replacement parts and software updates are no longer available. IVR's acceptance of check payments has been disabled since December after a security upgrade to the payment processing system operated by Fidelity Information Services and customer access to IVR phone ports have been intermittently interrupted due to IVR's incompatibility with the upgraded-payment processor application. N. Harris Computer Corporation is not required to provide a replacement of the IVR after the initial term of the contract, which ended on January 16, 2016 or to maintain interface compatibility with the upgraded FIS application. Through the IVR maintenance agreement with N. Harris, temporary solutions were implemented to improve the stability and performance of the existing system, including the installation of a monitoring application and a more robust monthly maintenance program. While they have substantially improved continuous IVR functionality, check payments are still disabled and the stability and performance of the existing IVR remain a significant concern. A long-term solution is necessary.

The proposed amendment to the N. Harris contract would implement an upgrade to change the on-premises IVR to a vendor-hosted, cloud-based system, which would stabilize, restore, and increase performance of IVR functions. Public Works' in-house maintenance efforts and related staff costs would be reduced, check payments would be reestablished, and additional customer service features, such as the ability for customers to transfer from delinquent robo-call notifications to the payment processor and enhanced payment arrangement options, would be provided.

#### Justification for Sole-Source

Public Works is seeking approval to enter a sole-source amendment to the contract with N. Harris to implement the upgrade to the Paymentus IVR to a cloud-based solution based on the two following sole source justifications:

1. Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider. Paymentus is a proprietary IVR software that is a critical component of the ongoing CIS solution that serves Waterworks Districts' customers. Public Works has evaluated the leading IVR software vendors over a 10 month period and determined that each would require installation of their own proprietary software and the vendor would need to develop integration compatibility with the existing billing application and with the payment processor application. Paymentus is the sole vendor to provide services to its IVR which is currently fully integrated into the existing CIS solution. N. Harris and its subcontractor have extensive knowledge of the current Waterworks IVR environment. For ongoing viability of the existing Paymentus IVR component of the CIS solution, this amendment and migration to cloud-based IVR

services would cost approximately \$220,000 for the remaining potential contract term and would take 6 months to fully implement. If Public Works were to undertake a solicitation for a new vendor for IVR software to be customized to integrate into the CIS solution, the cost and time would double since other vendors would be required to substantially customize their software to meet DPW's IVR requirements. The proposed contract amendment to upgrade the IVR to a cloud-based system would provide maximum compatibility and seamless application integration more quickly and at a lower cost than would be incurred with a new vendor and IVR software. Paymentus IVR customer user interface is optimal for customer ease of use and will minimize the implementation time as well as the cost and time to train staff.

2. Maintenance service agreements exist on equipment which must be serviced by the original equipment manufacturer or an authorized service representative. The current CIS maintenance service agreement with N. Harris has 3 years remaining and another 5-year optional contract extension for ongoing maintenance to the existing IVR component of the CIS system maintained by N. Harris. The existing IVR is proprietary and must be maintained by Paymentus Corporation, a subcontractor to N. Harris. The proposed sole-source contract amendment with N. Harris would complement the existing CIS maintenance service contract for the Paymentus IVR application without impacting the maintenance of other CIS components. The terms of the proposed amendment would coincide with the potential remaining contract term, including extensions, for the existing contract.

We will work with County Counsel to negotiate this contract amendment with N. Harris and will return to the Board for approval. If you have any questions, please call me or your staff may contact Angela George, Deputy Director, at (626) 458-4012.



## SOLE SOURCE CHECKLIST

Check (✓)	<b>JUSTIFICATION FOR SOLE SOURCE CONTRACTS</b> Identify applicable justification and provide documentation for each checked item.
	➤ Only one bona fide source (monopoly) for the service exists; performance and price competition are not available. <i>A Monopoly is an "Exclusive control of the supply of any service in a given market. If more than one source in a given market exists, a monopoly does not exist."</i>
	➤ Compliance with applicable statutory and/or regulatory provisions.
	➤ Compliance with State and/or federal programmatic requirements.
	➤ Services provided by other public or County-related entities.
	➤ Services are needed to address an emergent or related time-sensitive need.
	➤ The service provider(s) is required under the provisions of a grant or regulatory requirement.
✓	➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.
	➤ <u>Services are needed during the time period required to complete a solicitation for replacement services; provided services are needed for no more than 12 months from the expiration of an existing contract which has no available option periods.</u>
✓	➤ Maintenance service agreements exist on equipment which must be serviced by the original equipment manufacturer or an authorized service representative.
	➤ It is more cost-effective to obtain services by exercising an option under an existing contract.
	➤ It is in the best economic interest of the County (e.g., significant costs to replace an existing system or infrastructure, administrative cost savings and excessive learning curve for a new service provider, etc.) In such cases, departments must demonstrate due diligence in qualifying the cost-savings or cost-avoidance associated with the best economic interest of the County.

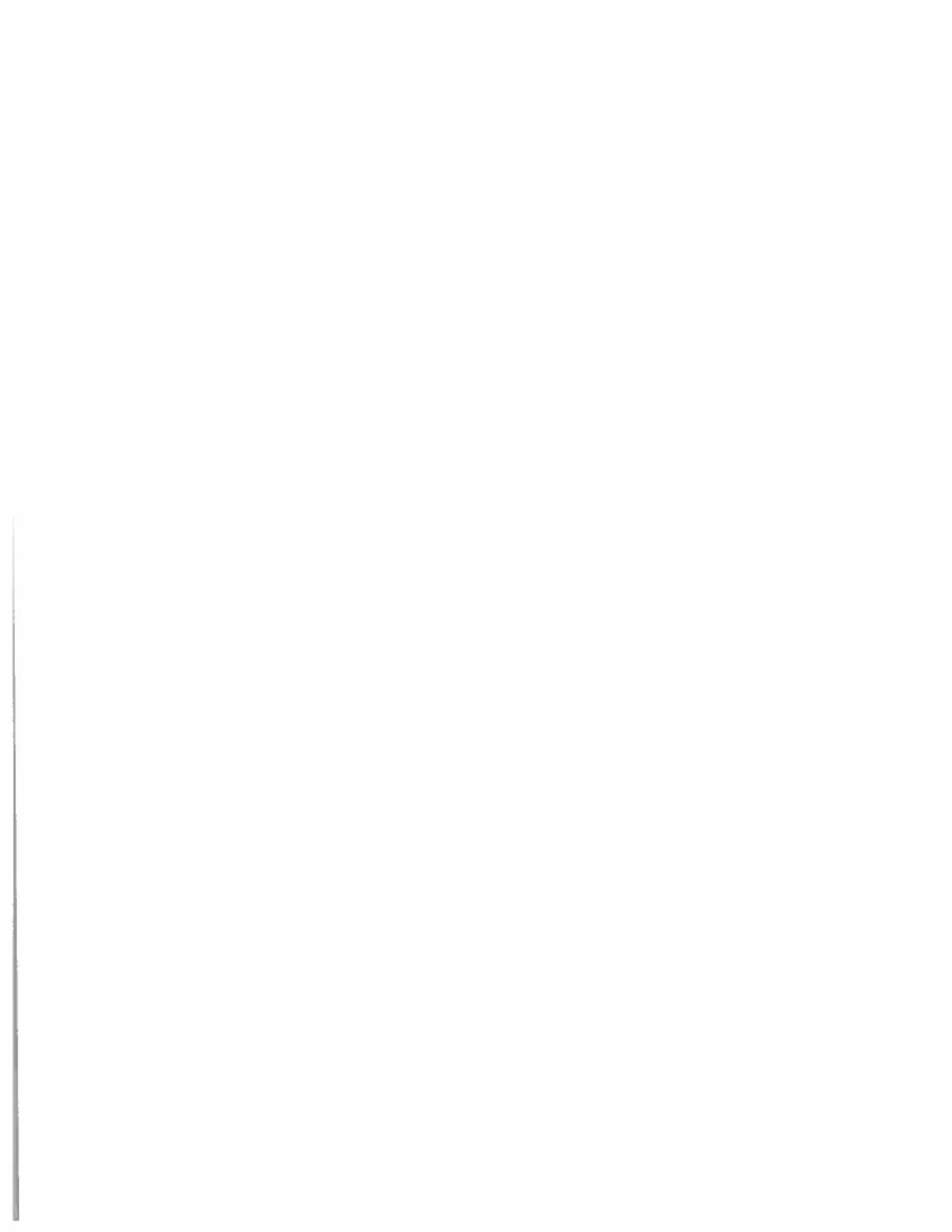
*Stephanie Fair*

Chief Executive Office

*Christa Ann Gier*

10/31/2017

Date



# Briefing Sheet: DPW/Waterworks - Customer Information System (CIS) Interactive Voice Response (IVR) Services

## Background

**Contractor:** N. Harris Computer Corporation | **Subcontractor:** Paymentus (IVR)

**CIS:** Provides account infrastructure and services for 70,000 Waterworks Districts Customers.

**IVR:** A CIS component that enables customers to access account information, receive notifications, contact the Districts' customer service staff, and pay water bills by phone. The IVR is a product of subcontractor Paymentus.

## Issues

**January 2016:** During Option Term 1 (see Timeline below), Paymentus announced that a new cloud hosted IVR is available and support for the existing on-premises IVR will end in March 2018.

**December 2016:** A security upgrade by the payment processor – Fidelity Information Services (FIS) – caused the IVR's check payment feature to fail.

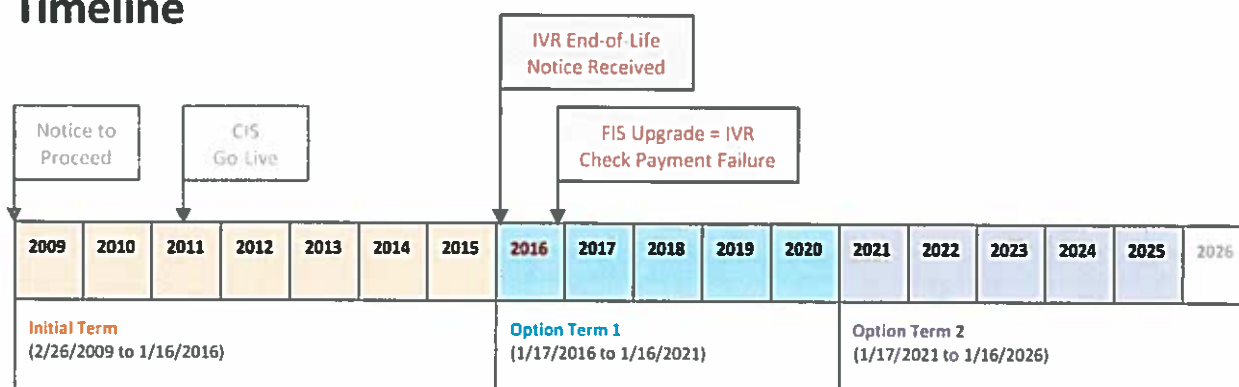
## Upgrade Path

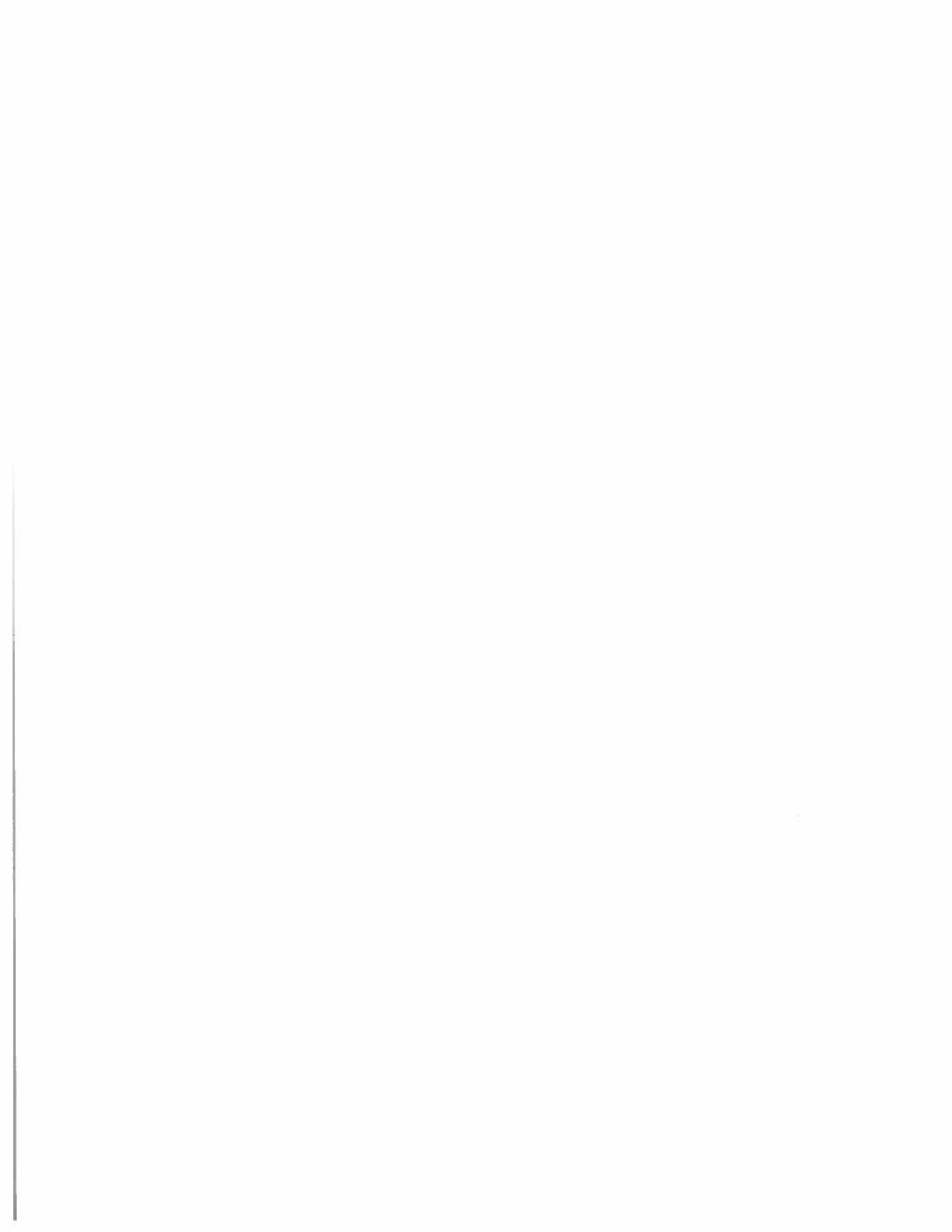
County Counsel reviewed the CIS Agreement and found:

- The Contractor is not required to replace the IVR component at no additional cost to the County if it is phased out *after the Initial Term*.
- The Contractor is not required to maintain compatibility with an interfaced County system (i.e. FIS) if that system is updated or its specifications change.

A contract amendment will address any changes to maintenance, support, and security requirements introduced by the cloud hosted IVR. Public Works will work with County Counsel to negotiate the costs and terms of the upgrade and Amendment.

## Timeline







SACHI A. HAMAI  
Chief Executive Officer

# County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

DRAFT

December 19, 2017

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

Board of Supervisors  
HILDA L. SOLIS  
First District

MARK RIDLEY-THOMAS  
Second District

SHEILA KUEHL  
Third District

JANICE HAHN  
Fourth District

KATHRYN BARGER  
Fifth District

Dear Supervisors:

**APPROVE ADDENDUM No. 4 TO FINAL ENVIRONMENTAL IMPACT REPORT AND REFINEMENTS TO THE MUSIC CENTER IMPROVEMENTS ELEMENT OF THE GRAND AVENUE AND ENVIRONS PROJECT, AUTHORIZE FUNDING AGREEMENT WITH PERFORMING ARTS CENTER OF LOS ANGELES COUNTY, APPROVAL OF USE OF COMMERCIAL PAPER TO FUND FUNDING AGREEMENT, APPROPRIATION ADJUSTMENT, AND AMENDED AND RESTATED MUSIC CENTER OPERATING LEASE AND RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION (FIRST DISTRICT) (3 VOTES)**

## **SUBJECT**

Approval of Addendum No. 4 to the Grand Avenue and Environs Project Environmental Impact Report, and approval of refinements to the Music Center Improvements element of the Grand Avenue and Environs Project; delegation of authority to the Chief Executive Officer or her designee to execute a funding agreement with Performing Arts Center of Los Angeles County; appropriation adjustment; and authorization for commercial paper financing, all related to the refinements to the Music Center Plaza.

In addition, authorization to enter into an Amended and Restated Music Center Operating Lease that amends and combines an existing sublease and various operating agreements, and addresses a number of issues raised in a 2015 audit; and finding that the Amended Lease is exempt from the California Environmental Quality Act.



IT IS RECOMMENDED THAT THE BOARD:

1. Certify that Addendum No. 4 to the previously certified Final Environmental Impact Report for the Grand Avenue and Environs Project has been completed in compliance with the California Environmental Quality Act and reflects the independent judgment and analysis of the County; find that the Board has reviewed and considered the information contained in Addendum No. 4 with the Final Environmental Impact Report prior to approving the refinements to the Music Center Improvements element of the Grand Avenue and Environs Project; and approve the Addendum No. 4.
2. Find that the Amended and Restated Music Center Operating Lease is exempt from the provisions of the California Environmental Quality Act for the reasons stated in this Board letter and the record.
3. Approve the refinements to the Music Center Improvements element of the Grand Avenue and Environs Project, which involves refinements to the Music Center Plaza as further described below.
4. Authorize the Chief Executive Officer, or her designee, to execute a funding agreement with the Performing Arts Center of Los Angeles County in the amount of \$33,000,000 for the costs of the refinements to the Music Center Plaza, as further described below, and find that the recommended action is to contribute funding to serve the social needs of the County.
5. Approve the use of \$28,000,000 of short-term commercial paper notes to partially fund the expenses associated with the refinements to the Music Center Plaza pursuant to the funding agreement described in Recommendation 4.
6. Approve the appropriation adjustment to transfer \$5,000,000 in the Provisional Financing Uses-Variou budget to the Project and Facilities Development Fund to be disbursed to Performing Arts Center of Los Angeles County for the expenses associated with the refinements to the Music Center Plaza pursuant to the funding agreement described in Recommendation 4.
7. Find that the property to be leased will not be needed for County purposes during the lease term and that the programming to be provided by Performing Arts Center of Los Angeles County serves public purposes, and approve and authorize the Chair to sign and execute the Amended and Restated Music Center Operating Lease with Performing Arts Center of Los Angeles County.

8. Approve and authorize the Chief Executive Officer, or her designee, to amend the current agreements between the County and Performing Arts Center of Los Angeles County for the lease, operation, and maintenance of the Walt Disney Concert Hall to conform with the changes in the Amended and Restated Music Center Operating Lease. Any necessary amendments shall require approval as to form by County Counsel.

9. Authorize and direct the Chief Executive Officer, or her designee, to execute any other ancillary documentation necessary to effectuate the funding agreement and the Amended and Restated Music Center Operating Lease; and authorize the Chief Executive Officer, or her designee, to take actions necessary and appropriate to implement these documents.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

**The recommended actions address both Music Center Plaza Refinements and an Amended and Restated Music Center Operating Lease.**

### **MUSIC CENTER PLAZA REFINEMENTS**

With respect to the recommended refinements to the Music Center Plaza,, the recommended actions will approve Addendum No. 4 to the previously certified Final Environmental Impact Report for the Grand Avenue and Environs Project (Project), and approve the specific refinements to the Music Center Plaza. The recommendations also authorize the Chief Executive Officer (CEO), or her designee, to execute a funding agreement with the Performing Arts Center of Los Angeles County (PACLAC), approval of the use of up to \$28,000,000 of commercial paper notes and \$5,000,000 from Provisional Financing Uses-Variou budget (PFU-Variou) to fund the funding agreement with PACLAC, and approval of the appropriation adjustment to transfer funds from PFU-Variou to Project and Facilities Development Fund (PFD) to disburse County funds to PACLAC pursuant to the funding agreement terms.

### **Background**

On July 5, 2016, the Board authorized the CEO to execute a funding agreement with PACLAC for preconstruction activities involving proposed refinements to the Music Center Plaza. Under that funding agreement, the County transferred \$2,000,000 to PACLAC to complete design, environmental documentation and other preconstruction activities involved in the proposed refinements to the Music Center Plaza.

The proposed refinements to the Music Center Plaza include leveling and refinishing the Music Center Plaza surface to align flush with the Dorothy Chandler Pavilion and Mark Taper Forum, reconstructing the existing Grand Avenue staircase with a more narrow staircase flanked on both sides by donor panels and escalators, moving the approximately 50-foot-tall "Peace on Earth" Lipchitz sculpture in the center of the Music Center Plaza along its axis towards Hope Street, reorganizing the existing food, beverage, and information facilities around the Plaza by creating four new, permanent structures, and adding new public restrooms to replace the existing restroom trailer.

During the course of design of the above proposed refinements which was completed in June 2017, significant issues were encountered which increased construction costs from the original preconstruction cost estimate of \$30,000,000 to \$40,000,000. The major design complications increasing construction costs included the need for a more expensive paver system to meet load requirements for the Music Center Plaza, increased accessibility entry scope, and structural reinforcement of the parking structure. PACLAC reports \$1,700,000 in value engineering savings to the budget.

The original funding plan for the \$30,000,000 cost estimate for the refinements to the Music Center Plaza consisted of PACLAC commitment to contribute \$5,000,000 and the County funding the remaining \$25,000,000, through the initial \$2,000,000 net County cost already transferred in July 2016 for the preconstruction services, and an additional \$23,000,000 in County funding which could be provided using bond financing, which the CEO estimated at \$1,800,000 in annual financing costs over a 30-year term.

To provide for the increase in costs described above, the revised funding plan would increase the PACLAC obligation from \$5,000,000 to \$10,000,000, and provide an additional \$5,000,000 from the County. For the additional PACLAC contribution, the County would initially fund \$5,000,000 in expenses on PACLAC's behalf, and PACLAC would repay the funds, including all financing costs via \$400,000 annual payments until paid off. The funding agreement between the County and PACLAC will contain the terms of the funding for the proposed refinements to the Music Center Plaza.

#### AMENDED AND RESTATED MUSIC CENTER OPERATING LEASE

With respect to the proposed Amended and Restated Music Center Operating Lease with PACLAC (**Amended Lease**), these recommendations will authorize the Chair to execute the Amended Lease and make California Environmental Quality Act (CEQA) findings related thereto and provide authorization to amend current agreements and execute any ancillary documentation necessary and appropriate to implement the funding agreement and Amended Lease. The Amended Lease will update and replace a series of older

Music Center agreements and also incorporate new provisions to address the findings of a 2015 County audit of the Music Center.

### Background

In 1963, the County and the Music Center Operating Company (now known as PACLAC) entered into the Music Center Operating Sublease, which provides for PACLAC's operation of the Music Center and specifies certain duties and obligations between the parties in connection with such operation. Over the past 55 years, the County and PACLAC have executed multiple related documents such as operating agreements, operating memos, and amendments. The existing lease with PACLAC expires on June 25, 2064.

On July 7, 2015, your Board instructed the Auditor-Controller to conduct an audit of the County General Fund's Music Center budget to review the use of County funding provided for Music Center operations. The Auditor-Controller issued its report on October 20, 2015 with 33 recommendations that related mainly to financial transparency and County oversight. The audit recommendations include, without limitation:

- Replacing the various agreements with an amended and restated operating lease;
- Define and clarify allowable Music Center operational costs paid by the County;
- Clarify the County will have full access to view financing records and expenditures which uses County fund (including concession revenue);
- Formalize annual budget requests to the County;
- Formalize accounting process to ensure County funds are appropriately spent; and
- Ensure expenditures for gifts, business entertainment and meals are not paid for by County funds.

The Amended Lease addresses the recommendations in the Auditor-Controller's report. The single consolidated agreement also eliminates confusion, conflicts, and inefficiencies caused by numerous versions of the earlier documents that the Amended Lease would replace. For further details about the Amended Lease, please see the Facts and Provisions section below.

### **FISCAL IMPACT/FINANCING**

The recommended actions would increase the amount the County would contribute to PACLAC to complete the \$40,000,000 refinements to the Music Center Plaza from \$25,000,000 to \$30,000,000. The County funding consists of \$7,000,000 net County cost (\$2,000,000 previously transferred in July 2016 for preconstruction services and \$5,000,000 transferred from PFU-Various as part of this action) and \$23,000,000 in bond financing, which will be repaid by the County over a 30-year term, with annual financing costs estimated at up to \$1,800,000. The PACLAC funding will increase from \$5,000,000 to \$10,000,000, with the increase consisting of \$5,000,000 for the costs for the refinements to the Music Center Plaza that will be initially funded by the County through borrowing but repaid by PACLAC. PACLAC will be responsible for reimbursement of the principal, interest, and other associated costs the County incurs with the borrowing for those costs, which PACLAC will repay to the County in annual payments of \$400,000 to the County via the Rent Budget. PACLAC may fund a portion of its additional \$5,000,000 obligation by directly paying for the costs of the Plaza refinements, if funding availability is confirmed by CEO. Any such cash-funding of Plaza refinement expenses by PACLAC would offset the County's required borrowing on its behalf.

Pursuant to the terms of the funding agreement, PACLAC is permitted to raise funds from naming rights to the refurbished County-owned Music Plaza facilities for exclusive use toward funding its \$10,000,000 obligation to the refinements to the Music Center Plaza

The transfer of the \$5,000,000 additional County funding will be accomplished via an appropriation adjustment approved as part of this action, with the \$5,000,000 transferred from PFU-Various to the Project and Facilities Development Fund to be disbursed to PACLAC for the expenses associated with the refinements to the Music Center Plaza pursuant to the funding agreement terms.

Pursuant to the Board's Civic Art Policy, adopted on December 7, 2004, and last amended on August 11, 2015, the Project cost also includes one percent (1%) of the estimated design and construction cost to be allocated to the Civic Art Fund. The Los Angeles County Arts Commission has confirmed the Music Center Plaza refinements scope, which includes improvements to exhibit/performance space and similar facilities, is an eligible use of the civic art allocation and agreed to use the Civic Art Fund allocation to fund Project costs.

The Amended Lease was designed to be cost neutral with no additional fiscal impact on the County as compared with the existing Music Center agreements that it is replacing. County allocations for the Music Center operational costs will continue to be approved by the Board each year through the County budget process.

## **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Pursuant to California Government Code 26227, the Board may expend money for projects and/or programs which will serve the social needs of the County, and the County may contract with other public agencies, private agencies, non-profit entities, or individuals for those projects and/or programs. The purpose of the recommended actions is to contribute funding to serve the social needs of the County in the area of culture and the arts. In addition, Government Code 26227 allows the Board of Supervisors to make available to a nonprofit organization any County real property that is not needed for County purposes in order to carry out programs that serve public purposes.

The Amended Lease contains the following changes from the existing lease:

- Combines and updates the terms of the existing lease and the various related operation agreements into one document that will govern the operation of The Music Center;
- Clarifies the areas of the Music Center which will be PACLAC's responsibility;
- Clarifies that any redevelopment of the De Lisa Building will be subject to the approval of the County Board of Supervisors and a separate agreement;
- Clarifies PACLAC's right to grant further naming rights at The Music Center will require the County's consent and a separate agreement;
- Updates the indemnity and insurance provisions to track current County standards;
- Gives the Board of Supervisors the right to participate in selection of PACLAC's CEO;
- Clarifies the audit process and County audit rights with access to all of PACLAC's operations records, which will enable County to better trace all County funds and County contributions;
- Clarifies important distinction for audit purposes between revenue generated by "Operations" and revenue generated by "Programming";
- Prohibits PACLAC from spending County funds on entertainment uses and certain overhead accounts;
- Clarifies the Annual Budget process for the Music Center and the Walt Disney Concert Hall, by acknowledging PACLAC's consolidated budget unit for the two assets. (The proposed actions will allow for the amendment of the Walt Disney Concert Hall lease so that it is consistent with the Amended Lease);
- Adds standard default and remedy language, including the right to terminate in the event of default consistent with the Walt Disney Concert Hall lease; and
- Modifies language which requires PACLAC to transfer all of PACLAC's assets at the end of the lease term to now exclude those assets generated by or from PACLAC's programming activities. These excluded assets must meet all of the following criteria: (1) were not purchased using County funds, (2) are not needed to operate the Music Center, and (3) are not expressly restricted for use at the Music Center. PACLAC will have the burden of proving any asset satisfies the foregoing criteria.

## **ENVIRONMENTAL DOCUMENTATION**

With respect to the Music Center Plaza refinements, the Final Environmental Impact Report for the Project was certified by the Board on October 8, 2002 (Certified EIR), and Addenda Nos. 1, 2, and 3 to the Certified EIR were approved by the Board in 2003.

The detailed Addendum 4 documents that the impacts previously identified in the Certified EIR would not change as a result of the recommended refinements, and there would not be any new or substantially more adverse environmental impacts. None of the conditions which would require recirculation and a Subsequent EIR under section 15162 of the State CEQA Guidelines have occurred. There are no changes to the Project or to the circumstances under which the Project is undertaken that require further review to the Certified EIR, as amended by Addenda Nos. 1-4.

Upon your Board's approval of the proposed refinements to the Music Center Plaza, the CEO will file a Notice of Determination with the County Clerk in accordance with section 21152 of the California Public Resources Code. The Addendum No. 4 and the certified EIR and Addenda Nos. 1, 2, and 3 are available and can be viewed at <http://ceo.lacounty.gov/envdocGA.html>. The location of the documents and other materials constituting the record of the proceedings upon which your Board's decision is based in this matter is the Kenneth Hahn Hall of Administration, 500 West Temple Street, Room 754, Los Angeles, California. The custodian of such documents and materials is Bradley M. Bolger, Senior Manager, Los Angeles County Chief Executive Office.

With respect to the recommended Amended Lease and related documents, the actions are exempt from CEQA as specified in Class 1 of the Environmental Document Reporting Procedures and Guidelines adopted by the Board of Supervisors, and section 15301 of the State CEQA Guidelines (Existing Facilities) because it involves the leasing of an existing facility with no expansion of the current use. In addition, based on the Project records, it will comply with all applicable regulations, and it is not in a sensitive environment, and there are no cumulative impacts, unusual circumstances, damage to scenic highways, listing on hazardous waste sites compiled pursuant to Government Code section 65962.5, or indications that it may cause a substantial adverse change in the significance of a historical resource that would make the exemption for the Amended Lease inapplicable.

Upon your Board's approval of the recommended actions relating to the Amended Lease, the CEO will file a Notice of Exemption with the County Clerk in accordance with section 21152 of the California Public Resources Code.

Honorable Board of Supervisors  
December 19, 2017  
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DRAFT

**CONCLUSION**

Please return one adopted copy of this Board letter to the Chief Executive Office, Capital Programs Division. Further, it is requested that the Executive Office, Board of Supervisors, return four originals of the executed Amended Lease, two certified copies of the Minute Order, and the adopted, stamped Board letter to the CEO, Real Estate Division, at 222 South Hill Street, 4th Floor, Los Angeles, CA 90012, for further processing.

Respectfully submitted,

SACHI A. HAMAI  
Chief Executive Officer

SAH:JJ:DPH  
BMB:AA:PB:zu

Attachments

c: Executive Office, Board of Supervisors  
Auditor-Controller  
County Counsel  
Treasurer and Tax Collector



**AMENDED AND RESTATED  
MUSIC CENTER OPERATING LEASE**

This Amended and Restated Music Center Operating Lease (“**Amended Lease**”), dated as of December \_\_, 2017 (the “**Effective Date**”), is entered into by and between the COUNTY OF LOS ANGELES, a body corporate and politic of the State of California (“**County**”), and PERFORMING ARTS CENTER OF LOS ANGELES COUNTY, a California non-profit public benefit corporation (“**Operator**”).<sup>1</sup>

**RECITALS :**

WHEREAS, County is the owner of certain real property in the Civic Center area of The City of Los Angeles, as more particularly set forth in Section 1(a) below (“**The Music Center**”); and

WHEREAS, it is the intention of County that The Music Center be operated so that the citizens of County shall have the benefit of the finest of music, opera, light opera, ballet, lectures and other performances essential to the educational and cultural development of the community, and

WHEREAS, on March 13, 1962, County and Operator (as successor by merger to The Music Center Operating Company, a California non-profit corporation) entered into that certain The Music Center Memorial Pavilion Operating Sublease, which was subsequently replaced and superseded by that certain The Music Center Operating Sublease, dated as of June 25, 1963 (the “**Original Sublease**”) pursuant to which County continues to lease The Music Center (as defined below) to Operator pursuant to Government Code 26227, and

WHEREAS, County and Operator previously entered into certain amendments, operating memoranda, modifications and supplements to the Original Sublease set forth in **Exhibit A** attached hereto and incorporated by reference (together with any other amendments, operating memoranda, supplements or other modifications to the Original Sublease entered into or effective after June 25, 1963, the “**Prior Amendments**”), and

WHEREAS, the Walt Disney Concert Hall is leased by County to Operator pursuant to the terms of that certain Walt Disney Concert Hall Lease, dated as of January 9, 2007 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**WDCH Lease**”); and Grand Park is operated by Operator pursuant to the terms of that certain Grand Park Maintenance, Operating, and Programming Agreement, Contract No. AO-12-088, dated as of June 26, 2012 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**Grand Park Operating Agreement**”), by and between County and Operator, and

WHEREAS to account for the evolving programs, operation, and needs of The Music Center and to facilitate its efficient operation, County and Operator have over time modified, or

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<sup>1</sup> Certain initially capitalized terms which are not otherwise defined in the provision where used have the meanings set forth in the attached Appendix I.

adopted additional operating policies and procedures to supplement those set forth in the Original Sublease; and

WHEREAS, the operation and management of The Music Center in a manner which will produce the desired results present unusual and difficult challenges demanding extraordinary knowledge and experience and the Board of Directors of Operator is composed of persons having experience in corporate management and special experience, competence and knowledge in the management of non-profit corporations engaged in the staging and production of musical, dance and theatrical events, and

WHEREAS, County and Operator now desire to set forth in a single document the provisions by which Operator will operate and maintain The Music Center, in connection with which County and Operator desire to amend, restate and supersede in their entirety the Original Sublease and all Prior Amendments and to document the modified and additional policies and procedures that have benefited the operation of The Music Center.

NOW, THEREFORE, in consideration of the performance of the mutual promises contained in this Amended Lease, the parties hereby amend and restate the Original Sublease as follows:

**Section 1. The Music Center.**

(a) “The Music Center” consists, collectively, of the following (including, without limitation, all buildings, structures and facilities related to each of the following, other than the subterranean parking garage located underneath The Music Center (the “**Garage**”), which is expressly not a part of “The Music Center”; provided, that the escalators, stairs (excluding the short stairways located adjacent to the vehicular ways throughout the Garage), and the elevators in and/or serving the Garage are part of “The Music Center”): (1) that certain real property situated to the west of Grand Park, the Stanley Mosk Courthouse of the Los Angeles Superior Court, and the Kenneth Hahn Hall of Administration, and bounded on the south by First Street, on the north by Temple Street, on the east by Grand Avenue, and on the west by Hope Street, in the Civic Center area of the City of Los Angeles, which has been improved by the construction of the Dorothy Chandler Pavilion, the Ahmanson Theater, the Mark Taper Forum, and The Music Center Plaza, and other structures; (2) the De Lisa Building located at the northwest corner of Grand Avenue and Temple Street, Los Angeles, California and the real property on which it and its adjacent parking, driveways, and appurtenant structures are located; and (3) that certain subterranean tunnel (“**Tunnel**”), the entire space thereof and all improvements therein, which is accessible via an entryway/access point located immediately north of The Music Center's Grand Avenue staircase and which terminates underground without any other points of ingress or egress. (For the purposes of clarity, the Tunnel is the northernmost of two pedestrian tunnels which formerly connected The Music Center side of Grand Avenue with the Grand Park side of Grand Avenue, and which were formerly used by the public as pedestrian passageways between The Music Center and the area previously known as the County Mall (now Grand Park)).

(b) Should County, at any time during the term hereof, wish to build another structure on the real property on which the De Lisa Building, its adjacent parking, driveways, etc., are located, it may terminate Operator's tenancy of the De Lisa Building, provided that County furnishes Operator, in the vicinity of The Music Center, with reasonably comparable and convenient office space and facilities for Operator and its tenants for the remainder of the term of this Amended Lease. For the avoidance of doubt, and notwithstanding anything to the contrary contained in this Amended Lease, Operator acknowledges and agrees that any substantial additions to, or renovations or significant upgrades of or to, the De Lisa Building shall, in each instance, be subject to the prior written approval of the County Board of Supervisors, in its sole and absolute discretion, and a separate agreement between the parties hereto.

**Section 2. Lease of The Music Center.**

(a) Upon and subject to the terms and conditions set forth in this Amended Lease, County hereby leases to Operator, and Operator hereby accepts and rents from County, The Music Center. Operator hereby agrees to use The Music Center (including, without limitation, all structures and facilities related thereto), for the public purposes for which the same were or are to be built, to wit: for use as places of public assembly for the use, benefit and enjoyment of the public as auditoriums, opera houses, music halls and centers. Such use shall include, without limitation, the presentation of theatrical endeavors, recitals, concerts, lectures, dances, musical shows, opera presentations, ballet performances, festivals, tableaux, meetings, other assemblies and all other incidental and related uses including off-street parking for motor vehicles, concessions, and restaurants.

(b) The Music Center shall not be used for off-site advertising, any use that creates a nuisance or violation of law, uses that may cause or create unsafe or unsanitary conditions or uses involving the roof of any structure or for any purpose other than the uses specified in the immediately preceding sentence without the prior written consent of County.

(c) The granting of any naming rights with respect to The Music Center and the Improvements (as defined in Section 5(e)) from and after the Effective Date shall be subject to the prior written consent of the County and a separate agreement between the parties hereto. **Exhibit H** attached hereto reflects Operator's good faith effort to identify the naming rights that have been granted (by location and/or type) with respect to The Music Center and the Improvements as of the Effective Date. Notwithstanding such **Exhibit H**, any naming rights that Operator can show by reasonable documentation were granted prior to the Effective Date shall be deemed to be part of **Exhibit H** and are not required to be subject to a separate agreement between the parties hereto.

(d) Unless terminated earlier as provided in this Amended Lease, the term of this Amended Lease shall expire on June 25, 2064.

(e) At the end of the term, all of Operator's assets, after payment or discharge of its indebtedness and liabilities, shall be transferred to and title thereto shall vest in County, except for any assets generated by or for Programming by Operator using funds

other than Operations Revenue (“Programming Assets”) to the extent such Programming Assets (i) are not used in connection with or not necessary for Operations at The Music Center, and (ii) are not expressly restricted to use at The Music Center. It is the intent of the parties that at the expiration or earlier termination of this Amended Lease, County shall receive all of Operator’s assets that were meant to be used to operate or maintain The Music Center, and/or were donated to or fundraised by Operator with the agreement that such assets would be used exclusively at The Music Center. Upon the expiration or earlier termination of this Amended Lease, Operator shall bear the burden of proving, to County’s satisfaction, that the Programming Assets that Operator desires to retain satisfy the foregoing criteria and intention of the parties.

(f) Following the expiration or earlier termination of this Amended Lease, in the event that a person or entity that donated Programming Assets to Operator that are not transferred to County pursuant to Section 2(e) brings a claim against County, and contends that such Programming Assets were intended solely for use at The Music Center, then Operator shall remain solely responsible for and shall defend, indemnify, and hold harmless County from and against any such claim. The County understands that Operator may need access to the Music Center to fulfill the obligations that are the basis for such donor’s claim and, if that is the case, Operator’s indemnification obligations set forth in this Section 2(f) shall be contingent on the County making The Music Center available to Operator for such purpose pursuant to a Short Term Sublease. The parties’ obligations under this Section 2(f) shall survive the expiration or earlier termination of this Amended Lease.

**Section 3. Title to Property.**

(a) Title to The Music Center and all personal property and fixtures placed in or attached to The Music Center by County, shall remain vested in County at all times. Title to all personal property and fixtures placed in or attached to The Music Center by Operator shall remain vested in Operator at all times unless such fixtures (i) replace or have replaced fixtures owned by County, or (ii) are purchased with Operations Revenue, in which case they shall belong to, and be vested in, County. Title to personal property and fixtures placed in or attached to The Music Center by Operator’s sublessees or concessionaires shall be controlled by the sublease to Operator’s sublessee or by concession contract, as the case may be.

(b) It may become necessary or desirable from time to time for Operator to request to transfer the ownership of some of its personal property and fixtures placed in The Music Center to County. County may, in its sole and absolute discretion, agree to accept said transfer of ownership when requested by Operator.

(c) As used herein, the term “**Operator’s Equipment**” shall refer to any equipment not purchased with Operations Revenue and owned by Operator, located at The Music Center and used by Operator for the operation of The Music Center. County acknowledges that Operator’s Equipment shall be the property of Operator and Operator shall have the right to remove same from The Music Center upon the expiration or earlier

termination of this Amended Lease. County shall not be responsible for any damage to, or loss, upgrading, replacement, maintenance or repair of Operator's Equipment.

**Section 4. Management Policy.**

Operator shall operate The Music Center so as to be used in a manner consistent with California Govt. Code Section 26227. Without limiting the generality of the foregoing, County and Operator hereby agree that the Operator shall manage The Music Center so as to furnish the maximum educational and cultural benefits to the community, taking into account the Annual Budget and funds received by Operator from any other sources, including without limitation Operations Revenue and funds received by Operator for, or revenue or other proceeds generated by, Programming.

**Section 5. Division of Duties.**

(a) Operator shall operate and manage The Music Center for the public purposes for which the same were or are to be built in accordance with the standards and subject to the controls set forth in this Amended Lease.

(b) County shall supply all steam for heating, chilled water for air-conditioning and all utilities to The Music Center at County's expense and without cost to Operator.

(c) In the event of destruction of The Music Center or any part thereof neither Operator nor County shall have any obligation to repair or replace the same other than as set forth in Section 5(i) below regarding Operator's insurance and indemnity obligations.

(d) County alone shall operate the Garage and shall receive all of the revenue therefrom. In such Garage operation, parking for passenger vehicles shall be available for guests and patrons of, and personnel who work at, The Music Center at the then-prevailing parking rates. Persons designated by Operator as "Founders" shall be entitled to park in the most convenient parking space of the parking spaces then available at the then-prevailing parking rates. Attendant parking shall be provided for those who wish to pay for that service. If required by County, additional details regarding the operation of the Garage shall be set forth in an operating memorandum.

(e) Operator and County desire that The Music Center be recognized as among the finest performing arts centers in the nation. To that end, Operator shall maintain all of The Music Center and all improvements and physical structures which may exist or be erected, installed or made at The Music Center (collectively, the "**Improvements**"), together with all personal property and equipment located in or at The Music Center (collectively, "**Equipment**"), in good and substantial condition and repair at all times during the term of this Amended Lease, and, subject to the limitations set forth in Section 9, County shall provide to Operator the funding set forth in the applicable Annual Budget to enable Operator to discharge this obligation. For the purposes of this Amended Lease, the term "**maintenance**" is defined as all repair and preservation work necessary to maintain The Music Center, the Improvements and the Equipment in a good state of repair and otherwise safe, clean, wholesome and sanitary condition, as well as to preserve the same for their intended purpose for a maximum useful life (the "**Maintenance Standard**").

For the avoidance of doubt, Operator's maintenance obligations shall include, without limitation, making all repairs, replacements and alterations to The Music Center other than Non-Routine Maintenance as necessary to comply with the Maintenance Standard ("**Routine Maintenance**"). Not less than once during every five (5) years during the term of this Amended Lease, County and Operator shall review the Maintenance Standards, including, without limitation, the custodial and physical maintenance standards theretofore agreed upon by County and Operator, and update the same as necessary to be consistent with the then reasonable maintenance standards applicable to comparable performing arts centers in the nation.

(f) Operator agrees to provide custodial, grounds keeping, ushering, security and general facilities maintenance services at The Music Center in accordance with the following:

(1) Subject to Section 5(e), Operator shall maintain The Music Center in a manner satisfactory to County, including without limitation the provision of all Routine Maintenance of all major building systems. Without limiting the foregoing, Operator shall keep The Music Center in reasonably clean condition, and the facilities therein shall be maintained in a condition which will allow the continued use of The Music Center for the purposes for which it is intended. Furthermore, Operator shall maintain The Music Center grounds (including, without limitation, plantings, terraces and fountains) in accordance with the Maintenance Standard.

(2) Notwithstanding any provision of this Amended Lease to the contrary, except as set forth in this Section 5(f)(2), Operator shall not be responsible for the cost of any Non-Routine Maintenance of The Music Center. For purposes of this Amended Lease, "**Non-Routine Maintenance**" means: (i) any planned item of maintenance which is generally required to be performed less often than once every five years, (ii) any necessary or desirable Capital Improvements, or (iii) any Emergency Maintenance. For purposes of this Amended Lease, "**Capital Improvements**" shall be defined as substantial additions or renovations, or significant upgrades of or to The Music Center, including building exteriors and major building systems (such as HVAC, mechanical, electrical, plumbing, vertical transportation, security, communications, structural or roof) that significantly increase the capacity, efficiency or economy of operation of The Music Center or its major building systems. For purposes of this Amended Lease, "**Emergency Maintenance**" shall be defined as the least amount of any immediate unplanned material repairs or replacements to the existing building systems, structural components and/or equipment that are broken or not functioning properly which, if not fixed, would pose an immediate health, safety, or security threat to the public or major damage to The Music Center, or would reasonably be expected to cause a material delay in or cancellation of any performance or event to be presented at The Music Center. Operator shall notify County in writing of the need for any required Emergency Maintenance within forty-eight (48) hours after learning of the need for the same. Any desired or necessary Non-Routine Maintenance to The Music Center during the term of this Amended Lease shall be subject to the prior written consent

of the County and a separate agreement between the parties hereto; provided, however, that if Operator reasonably determines that obtaining prior written consent for any particular Emergency Maintenance is not practicable because the urgency of the underlying emergency, Operator shall nevertheless provide notice thereof to County as set forth above, and following such notice, proceed to perform such Emergency Maintenance. The costs and expenses actually incurred by Operator for any Emergency Maintenance it performs (the “**Emergency Maintenance Costs**”) shall be paid for, first, by application of any insurance proceeds available to Operator from the insurance that Operator is required to maintain pursuant to Section 5(i)(2) below, and second, by using any available funds in the Facility User’s Fee account, if applicable to such Emergency Maintenance and to the extent such funds are not committed for other expenditures pursuant to Section 9(j). If Operator incurs Emergency Maintenance Costs in any fiscal year in excess of the available insurance or, if applicable and available, Facility User’s Fee proceeds, Operator may request reimbursement for the same from the County, which request shall be subject to the County’s approval pursuant to the applicable County approval process; provided, however, that such request shall be submitted to the County in writing, if at all, within 90 days after such Emergency Maintenance Costs were incurred; otherwise Operator shall be deemed to have waived any right to request or receive reimbursement for the same.

(3) All persons performing services hereunder shall meet the citizenship or alien status requirements contained in federal and state statutes and regulations, including, but not limited to, the federal Immigration Reform and Control Act of 1986. Operator shall obtain from all persons performing services hereunder, all verification and other documentation of employment eligibility status required by federal and state statutes and regulations as the same may be in effect from time to time, and Operator shall retain such documentation for the period prescribed by law. Without limiting the other provisions of this Amended Lease pursuant to which Operator agrees to indemnify County, Operator shall indemnify, defend and hold County and its agents, employees and officers harmless from and against any sanction or other liability which may be assessed against Operator or County, or both in connection with any alleged violation of state or federal laws relating to the employment of persons who are not United States citizens.

(g) County and Operator shall cooperate to manage and operate The Music Center in an efficient and economical manner.

(h) All of the personnel required to be furnished by this section shall be furnished by Operator by using its own personnel or by contracting for services and personnel to be supplied by others, subject to the terms and limitations set forth in this Amended Lease.

(i) **Indemnification and Insurance Requirements.** During the term of this Amended Lease, the following indemnification and insurance requirements shall be in effect.

(1) **Indemnification.**

(i) Operator shall indemnify, defend and hold harmless County and its Agents (as defined in Section 5(i)(3) below) and each of their respective successors and assigns from and against any and all liability, loss, injury or damage including, but not limited to, demands, claims, actions, fees, costs and expenses (including reasonable attorney and expert witness fees) (collectively, “**Claims**”), arising from or connected with (a) the operation, repair, maintenance, and other acts and omissions by Operator and its agents, officers, employees, licensees, concessionaires, or sublessees (collectively, the “**Operator Parties**”), arising from their use and occupancy of The Music Center, and/or (b) the failure of Operator or any of the Operator Parties to observe and abide by any of the terms or conditions of this Amended Lease or any applicable law, ordinance, rule, or regulation. In addition, Operator shall indemnify, defend and hold harmless County and its Agents and each of their respective successors and assigns from and against any and all Claims arising from or connected with the acts and omissions by invitees or permittees of Operator arising from (x) their use and occupancy of The Music Center, and/or (y) their failure to observe and abide by any of the terms or conditions of this Amended Lease or any applicable law, ordinance, rule, or regulation; provided that such indemnification obligation for invitees and permittees is limited to the extent that: (1) Operator is itself indemnified for such Claims, and/or (2) any insurance coverage is available to Operator for such Claims, whether pursuant to the policies of insurance that Operator is required to maintain under this Amended Lease or otherwise.

(ii) County shall indemnify, defend and hold harmless Operator and its agents, employees and officers and each of their respective successors and assigns from and against any and all Claims arising from or connected with (a) the operation, repair, maintenance, and other acts and omissions by County and its Agents, arising from their use and occupancy of the Garage, and/or (b) the failure of County and its Agents to observe and abide by any of the terms or conditions of this Amended Lease or any applicable law, ordinance, rule, or regulation.

(2) **General Insurance Provisions - Operator Requirements.**

(i) Without limiting Operator’s indemnification of County and during the term of this Amended Lease, and until all of its obligations pursuant to this Amended Lease have been met, Operator shall provide and maintain (including the cost of deductibles, subject to Section 5(i)(9)), in accordance with the Annual Budget process set forth in Section 9, insurance coverage satisfying the types, amounts and other requirements specified in this Amended Lease (including, without limitation, in this Section 5(i)); provided, however, with respect to the commercial property insurance for The Music Center, Operator shall either obtain and maintain



the same at County's expense, or, at County's election, County shall self-insure for the same. These minimum insurance coverage terms, types and limits (the "**Required Insurance**") also are in addition to and separate from any other contractual obligation imposed upon Operator pursuant to this Amended Lease. County in no way warrants that the Required Insurance is sufficient to protect Operator for liabilities which may arise from or relate to this Amended Lease.

(A) **Evidence of Coverage and Notice to County.**

(I) Certificate(s) of insurance coverage ("**Certificates**") satisfactory to County, and a copy of an additional insured endorsement confirming County and its Agents (as defined below) has been given insured status under Operator's general liability policy, shall be delivered to County at the address shown below and provided prior to the Effective Date.

(II) Renewal Certificates shall be provided to County not less than 10 days prior to Operator's policy expiration dates. County reserves the right to obtain complete, certified copies of any required Operator insurance policies at any time.

(III) Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Amended Lease by name or number, and be signed by an authorized representative of the insurer(s). The insured party named on the Certificate shall match the name of Operator identified in this Amended Lease. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding twenty five thousand (\$25,000.00) dollars, and list any County-required endorsement forms.

(IV) Neither County's failure to obtain, nor County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by Operator, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

(V) Certificates and copies of any required endorsements or notices of cancellation shall be delivered to:

County of Los Angeles  
Chief Executive Office  
Real Estate Division  
222 South Hill Street, 3rd Floor  
Los Angeles, CA 90012  
Attention: Property Management

(ii) Operator also shall promptly notify County of any third party claim or suit filed against Operator which arises from or relates to this Amended Lease, and would reasonably be expected to result in the filing of a claim or lawsuit against Operator and/or County.

(3) **Additional Insured Status and Scope of Coverage.** County, its Special Districts, elected officials, officers, agents, employees, counsel, consultants, and volunteers (collectively, “**County and its Agents**”), shall each be named as additional insureds under Operator’s general liability policy with respect to liability arising from or connected with Operator’s acts, errors, and omissions arising from and/or relating to Operator’s operations on and/or its use of The Music Center. County’s additional insured status shall apply with respect to liability and defense of suits arising out of Operator’s acts or omissions, whether such liability is attributable to Operator or to County. The full policy limits and scope of protection also shall apply to County as an additional insured, even if they exceed County’s minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

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

(5) **Failure to Maintain Insurance.** Operator’s failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of this Amended Lease, upon which County may terminate this Amended Lease in accordance with the terms of Section 15(a)(2). County, at its sole discretion, may obtain damages from Operator resulting from said breach. Alternatively, the County may purchase the Required Insurance and without further notice to Operator, pursue Operator for reimbursement.

(6) **Insurer Financial Ratings.** Insurance is to be provided by an insurance company authorized to do business in California and acceptable to

County, with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

(7) **Operator’s Insurance Shall Be Primary.** Operator’s insurance policies, with respect to any claims related to this Amended Lease, shall be primary with respect to all other sources of coverage available to County. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Operator coverage.

(8) **Waiver of Subrogation.** To the fullest extent permitted by law, Operator hereby waives its and its insurer(s) rights of recovery against County under all required insurance policies for any loss arising from or related to this Amended Lease. Operator shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

(9) **Deductibles and Self-Insured Retentions (“SIRs”).** Any Operator deductible or SIR shall be at County’s expense in accordance with the Annual Budget described in Section 9. County retains the right to require Operator to reduce or eliminate policy deductibles and SIRs as respects County, at County’s expense in accordance with the Annual Budget described in Section 9.

(10) **Claims Made Coverage.** If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the start date of this Amended Lease. Operator understands and agrees it shall maintain such coverage for a period of not less than three (3) years following the expiration, or early termination of this Amended Lease.

(11) **Application of Excess Liability Coverage.** Operator may use a combination of primary and excess insurance policies which provide coverage as broad as (“follow form” over) the underlying primary policies, to satisfy the Required Insurance provisions.

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

(13) **County Review and Approval of Insurance Requirements.** County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County’s determination of changes in risk exposures.

(14) **Insurance Coverage Types and Limits.**

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

General Aggregate: \$ 10 million

Products/Completed Operations Aggregate: \$ 10 million  
Personal and Advertising Injury: \$ 5 million  
Each Occurrence: \$ 5 million

(ii) Automobile liability insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Operator's use of autos pursuant to this Amended Lease, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

(iii) Workers compensation and employers' liability insurance or qualified self-insurance satisfying statutory requirements, which includes employers' liability coverage with limits of not less than \$1 million per accident. If applicable to Operator's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

(iv) Commercial property insurance, which insurance shall:

(A) Provide coverage for County's property and any Improvements and betterments; this coverage shall be at least as broad as that provided by the Causes-of-Loss Special Form (ISO form CP 10 30), excluding earthquake and including flood and ordinance or law coverage.

(B) Be written for the full replacement cost of the property and any Improvements, with a deductible no greater than \$250,000 or 5% of the property value, whichever is less. Insurance proceeds shall be payable to Operator and County as their interests may appear.

(15) **Provisions Pertaining to Property Insurance.** Upon the occurrence of any loss, the proceeds of commercial property insurance that is to be maintained by Operator shall be paid to, and held by, County in trust for the named insureds as their interests appear, and shall be disbursed by County on a monthly basis to pay for work completed in accordance with then-prevailing industry custom and practice. In the event of a loss, except as expressly provided to the contrary in this Amended Lease, Operator shall be obligated to use the insurance proceeds received by Operator to rebuild or replace the destroyed or damaged buildings, structures, equipment, and Improvements, in accordance with the procedures reasonably required by County. Any surplus or proceeds after said rebuilding or replacement shall be distributed to County.

Section 6. **General Standards of Performance.**

During the term of this Amended Lease, Operator shall observe and enforce the following separate, distinct and cumulative standards (provided, however, that if there is a more specific standard set forth elsewhere in this Amended Lease, then such more specific standard shall govern):

(a) **Punctual Payment.** Operator shall duly and punctually pay or cause to be paid its monetary obligations hereunder in strict conformity herewith.

(b) **Discharge Claims.** Operator shall discharge or provide for the discharge of all claims which it has authorized or incurred for labor, materials and supplies furnished for or in connection with The Music Center and pay all taxes (other than ad valorem taxes, if any, which shall be paid by County), assessments or other governmental charges lawfully levied or assessed upon or in respect of The Music Center or any part thereof or upon any of the revenues therefrom.

(c) **Non-Discrimination.** Operator herein covenants for itself its successors and assigns and all persons claiming through them that this Amended Lease is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, age, physical handicap, medical condition, sex, marital status, sexual preference, gender expression, gender identity, national origin or ancestry in the maintenance, operation and programming of The Music Center, nor shall Operator itself or any person claiming under or through it establish or permit such practice of discrimination or segregation at The Music Center. Operator agrees to include in any sub-agreement or other contract it enters with respect to The Music Center a covenant to the same effect as this Operator covenant.

(d) **Establish Rules.** Operator shall use reasonable efforts to enforce the rules and regulations which shall be established governing the use and operation of The Music Center. Without limiting the generality of the foregoing, Operator shall require all of Operator's employees, representatives, tenants, invitees, contractors, and agents (collectively, "**Operator's Related Parties**") to adhere to such rules and regulations and shall use reasonable efforts to enforce such adherence. The rules and regulations currently in effect are attached hereto as **Exhibit E** and incorporated by reference.

(e) **Governmental Regulations.** Operator shall duly observe, conform to and comply with all valid requirements of any governmental authority relative to The Music Center or any part thereof. Operator shall further require Operator's Related Parties and all persons using The Music Center or attending events therein to conform to and comply with such requirements, and shall use reasonable efforts to enforce such conformity and compliance.

(f) **Operation.** Operator shall operate and manage The Music Center in an efficient and economical manner, and County and Operator shall cooperate to that end.

(g) **Salaries.** All salaries, fees, wages and compensation paid by Operator in connection with its operation of The Music Center in accordance with this Amended Lease

shall be consistent with industry standards, taking into account labor markets in the geographical location of The Music Center, and no more persons shall be employed by Operator in connection with such operation than are necessary to comply with its obligations under this Amended Lease.

(h) **Performances.** Operator hereby covenants that all performances in The Music Center will be dignified and thoroughly high class in caliber and cast no negative reflection upon County nor mar the reputation of The Music Center.

(i) **County Board Hiring and Contracting Policies.** Operator agrees to comply with the terms of Exhibit X attached hereto and incorporated herein (collectively, “**Benefits**”). Exhibit X may be amended from time to time with the mutual written agreement of Operator and County. County's Chief Executive Office (“**CEO**”) shall be authorized to sign such agreements amending Exhibit X. At such time as Exhibit X is so amended, the agreed upon revised version of Exhibit X will replace the previous version of the exhibit, without the need to otherwise amend this Amended Lease, provided that County shall memorialize the new exhibit by providing written confirmation to the Operator of its replacement of the Exhibit X in the Amended Lease. No later than September 30 of each year of the term hereof, Operator shall deliver a written report to the County on its achievement of the Benefits in the past fiscal year. If the Operator fails to achieve any (or any portion) of the Benefits, the written report must also include an explanation of why each Benefit or portion thereof has not been achieved and a corrective action plan for achieving each such Benefit in the next fiscal year. At the County’s sole discretion, the Operator may be required to make an oral presentation of such report at a regularly scheduled meeting of the County Board of Supervisors.

(j) **Operator CEO.** Operator shall obtain the approval of the County Board of Supervisors, in the sole and absolute discretion of the County Board of Supervisors, prior to hiring any new chief executive officer of Operator. Once Operator has selected a final candidate for such position, Operator shall make such candidate available to the County Board of Supervisors for an interview to assist in the County Board of Supervisors’ consideration of the same.

#### Section 7. **Controls to be Exercised by County.**

Unless otherwise set forth in this section, the following separate, distinct and cumulative covenants and obligations of Operator shall continue throughout the term of this Amended Lease.

(a) **Long Term Subleases.** Any contract (including, without limitation, subleases, licenses or other agreements) for the staging of events at The Music Center which is for a term of three (3) years or more (including renewals and extensions), or which contemplates the staging of an event or events three (3) years or more from the date of execution thereof, is hereinafter referred to as a “**Long Term Sublease**”. Each such Long Term Sublease shall not exceed seven (7) years and shall be submitted to County in advance for County’s approval. No such Long Term Sublease shall be valid unless approved in writing by County in advance, and in all cases, no Long Term Sublease shall extend beyond the term of this Amended Lease. Each Long Term Sublease shall include

a provision that the sublessee shall not be permitted to further sublease without County's approval; provided, however, that County acknowledges that the Long Term Subleases listed on **Exhibit J** attached hereto (which were entered into prior to the Effective Date and previously approved by County) permit further subleasing without County's consent, and that nothing in this Amended Lease is intended to modify or otherwise affect such provisions of such Long Term Subleases.

(b) **Long Term Subleases with Other Non-Profit Corporations.** Any Long Term Sublease with another non-profit corporation or association shall comply with Section 7(a), above, and, in addition, may provide for successive options to renew for one or more additional terms (not to exceed a total maximum term of 7 years); provided, however, that said options shall not extend beyond the term of this Amended Lease. Price and other controls in any such Long Term Sublease may be changed on any such renewal; provided, however, that if Operator or County desire to change any provision of any such Long Term Sublease in any way which would adversely affect the non-profit long term sublessee in negotiating for events to be staged, written notice thereof must be given to the non-profit long term sublessee at least twenty-six (26) months prior to the date the option to renew may be exercised.

(c) **Short Term Subleases.** All contracts (including, without limitation thereto, subleases, licenses or other agreements) for the staging of events at The Music Center or for using the facilities thereof that are not Long Term Subleases are "**Short Term Subleases**". No Short Term Sublease shall extend beyond the term of this Amended Lease, and each Short Term Sublease shall include a provision that the sublessee shall not be permitted to further sublease without County's approval. In connection with Short Term Subleases, Operator shall compile and maintain:

(1) **Events.** A list of the classes and types of events which may be staged in The Music Center at times not committed under Long Term Subleases. Such list and subsequent changes shall be submitted to County in advance for approval. Operator shall not enter into a Short Term Sublease for or otherwise permit the staging of any class or type of event not included in said list as approved by County. County hereby approves the list of the classes and types of events set forth in **Exhibit I**.

(2) **Short Term Sublease Terms.** Standard provisions to be included in short term sublease forms for various types of tenants, other than Long Term Subleases, expected to occupy The Music Center for the staging of events or otherwise, which provisions shall be submitted to County in advance for approval, and after receiving such approval, any material change in such provisions in any Short Term Sublease shall in each instance be submitted to County for its approval as necessary. Such list of required provisions approved by County is set forth in **Exhibit K**.

(3) **Rental Rates.** A list of standard rental rates to be charged persons and organizations staging Short Term Sublease events at or using the facilities of The Music Center, provided, however, that Operator may deviate from such

standard rental rates in its discretion, taking into account (i) the nature of the applicable events, persons and organizations and (ii) Operator's obligations under Section 4. Such list shall be submitted to County with the Annual Budget for informational purposes.

(d) **Concession Approval.** Any contract (including, without limitation, subleases, licenses or other agreements) (i) for a term of more than 3 years (including renewals and extensions), or (ii) of any duration for any concession for any food or beverage operation, shall be submitted to County in advance for approval. No such contract shall be valid unless such contract is approved in writing by County. A list of all concession and restaurant contracts in effect at The Music Center as of the date of this Amended Lease is attached hereto as **Exhibit F**.

(e) **Rules and Regulations.** Operator shall compile a list of reasonable rules and regulations governing the operation and use of The Music Center, which, after receiving the written approval of County, shall be in effect and Operator shall use reasonable efforts to enforce. Any material change shall be submitted to County for its approval from time to time as necessary. County hereby approves the rules and regulations set forth in **Exhibit E**.

(f) **Entry by County.** County and its duly authorized representatives or agents may enter upon The Music Center at any and all reasonable times during the term of this Amended Lease for the purpose of determining whether or not the Operator is complying with the terms and conditions hereof, or to carry out any of the rights or obligations imposed on County hereby, or for any other purpose incidental to the rights of County.

(g) **Operations Revenue and Programming.** Operator shall utilize all Operations Revenue solely for the funding of Operations. For the avoidance of doubt, no Operations Revenue shall be used to fund Programming.

#### Section 8. **Records and Accounts; Audit Rights.**

Operator shall keep proper books of records and accounts in accordance with generally accepted principles of accounting in which complete and correct entries shall be made of all expenditures incurred and revenues received in the Operations of the facilities comprising The Music Center, whether or not such Operations are funded 100% by the County. Said books of records and accounts shall be available at reasonable times for inspection by County and County shall have the right at any reasonable times and on reasonable prior notice to examine and audit said books of records and accounts, without restrictions; provided, that County shall not have the right to inspect or audit Operator's books of records and accounts of Programming. Notwithstanding the foregoing, Operator shall be responsible to have at least an annual audit performed by a certified public accounting firm at its cost and expense (which audit shall cover both Operations and Programming), and Operator shall provide copies of such annual audit to County's CEO no later than October 31 of each year during the term hereof. Operator shall demonstrate to County's satisfaction that the expenses and revenues in such annual audited financial statements reconcile with the Operations costs and Operations Revenue for each applicable Department (as defined below). Operator shall maintain all books of records and



accounts for a period of seven (7) years in a location within Los Angeles County. In the event that any audit (whether performed by Operator or County) discloses a discrepancy whereby the County was underpaid more than two percent (2%) of the revenue that was due County for the period audited, then Operator shall pay for County's audit contract costs, plus the amount of any identified deficiency, with interest thereon from sources other than the Operations Revenue within ten (10) days after Operator's receipt of such audit results from County. The audit rights of County and recordkeeping obligations of Operator in this Section 8 shall survive the expiration of the term hereof or other termination of this Amended Lease for seven (7) years after such expiration or termination.

**Section 9. Budget, Yearly Payments, Facility User's Fee.**

(a) Annually and concurrently with the preparation of the County budget, Operator shall prepare and submit to County for County's written approval a budget of proposed expenditures of County Funds for Operator's obligations under this Amended Lease and the WDCH Lease during the ensuing fiscal year (as so approved, the "**Annual Budget**").

(b) Operator shall provide the services described in this Amended Lease through the departments of Operator set forth on **Exhibit B** and such other departments of Operator as Operator and County shall agree in writing (each, a "**Department**" and collectively, the "**Departments**"). The County shall fund the costs of such Departments as documented in the Annual Budget, which costs shall be the costs of each Department set forth on **Exhibit C**; provided, that such costs shall not include any expenditures prohibited by Section 9(g); and further provided that in the event of any conflict between an approved Annual Budget and an item listed in Section 9(g), the terms of Section 9(g) shall control.

(c) County shall fund the cost of maintaining and operating The Music Center as, and to the extent, set forth in the Annual Budget. County shall have no obligation to fund any costs or expenses in excess of the Annual Budget. Any additional funding provided by County (over and above that provided for in the Annual Budget) relating to this Amended Lease and/or the WDCH Lease shall be subject to County's approval.

(d) County shall pay to Operator fifty percent (50%) of the amount of the Annual Budget on or before July 31 of the applicable fiscal year and the remaining fifty percent (50%) of the amount of the Annual Budget on or before December 31 of the applicable fiscal year. Operator shall deliver an appropriate invoice to County for each such payment a reasonable period of time prior to the date such payment is payable by County.

(e) Operator shall not in any fiscal year expend County Funds provided pursuant to this Section 9 in excess of the total expenditures provided for in the Annual Budget with respect to such fiscal year. In the event that Operator exceeds the Annual Budget, Operator shall be solely responsible for the payment of such excess costs and expenses from sources other than County Funds. In the event that Operator expends less than the amounts set forth in the Annual Budget under this Amended Lease, Operator shall

either (i) repay the amount of such excess to County concurrently with Operator's submission of the annual audit to County's CEO for such fiscal year pursuant to Section 8 above, or (ii) apply such excess to the shortfall, if any, towards Operations-related items for the same fiscal year under the WDCH Lease as provided below in Section 9(f). In the event that the actual costs of any line item in the Annual Budget are less than the applicable amount set forth in the Annual Budget, Operator may apply the excess funds from such line item's budget to another line item in the Annual Budget; provided, however, in no event shall the total Annual Budget increase from moving funds from one line item to another line item.

(f) If Operator expends more to carry-out Operator's Operations obligations under this Amended Lease than budgeted under the Annual Budget, and less than budgeted under the same Annual Budget for Operations-related items under the WDCH Lease, then Operator may apply the excess funds from such Annual Budget relating to the WDCH Lease to the excess Operations-related expenditures under this Amended Lease in such fiscal year, and vice versa. Notwithstanding the foregoing, in no event shall (i) the Annual Budget increase as a result of the foregoing, or (ii) any Operations Revenue be used or applied (whether under this Amended Lease or the WDCH Lease) for anything other than as permitted under this Amended Lease. Operator will show the application of funds under this Amended Lease and the WDCH Lease in the Annual Budget for the fiscal year following the fiscal year in which such application occurred.

(g) Notwithstanding anything to the contrary in any approved Annual Budget, and for the avoidance of doubt, County shall have no obligation to fund, and Operator shall not use any:

(1) Operations Revenue to pay for: (i) the costs of any gift card, business gifts or other gifts of any kind to any recipient, (ii) the costs of any business entertainment, including, without limitation, any events held exclusively for the benefit of Operator's employees and directors (such as a holiday party or retreat for Operator's employees or board of directors), (iii) catering service for any meeting or occasion of any kind, (iv) Programming, (v) costs, expenses or fees (including, without limitation, attorneys' fees) incurred by Operator in connection with any dispute arising between Operator and County in connection with this Amended Lease, or (vi) any cost or expense that violates any County policy that is applicable to County's contractors and/or tenants generally.

(2) County Funds to pay for any administrative overhead expenses not set forth on **Exhibit C**.

(h) It is recognized that Operator is undertaking this Amended Lease and the duties hereunder and that all calculations have been made upon the assumption that no taxes will be payable by Operator; provided, however, that Operator's possessory interest (as defined in California Revenue and Taxation Code Section 107) in The Music Center created by this Amended Lease may be subject to property taxation, and in such case the Operator may be subject to the payment of the property taxes levied on the interest. With the exception of such possessory interest taxes, the County agrees to pay for and on behalf

of Operator all other state taxes and local taxes, but not any federal taxes, for which Operator shall become liable by virtue of its possession and operation of The Music Center in accordance with this Amended Lease. If requested by County, Operator will cooperate in any lawful means of resisting or contesting such taxes which County is agreeing to pay hereunder or of recovering the same after payment thereof by County. As used above “local taxes” shall mean taxes and assessments of every kind and nature, if any, levied and collected by the City of Los Angeles or the County of Los Angeles or by any authority, district or other local agency, and “state taxes” shall mean taxes and assessments of every kind and nature, if any, levied and/or collected by the State of California or any department or agency thereof, and “federal taxes” shall mean taxes and assessments of every kind and nature, if any, levied and/or collected by the United States of America or any department or agency thereof.

(i) On an annual basis, on or before September 30 of each fiscal year, Operator will deliver to County a summary of expenditures for the prior fiscal year of (a) Operations Revenue, generally, and (b) specifically, County Funds by department (Departmental Report), together with a certificate of compliance in the form of **Exhibit D** attached hereto duly executed by the Chief Financial Officer or an officer of substantially similar authority of Operator.

(j) **Facility User’s Fee.**

(1) County and Operator agree that a facility user’s fee (“**Facility User’s Fee**”) of no more than five percent (5%) shall be imposed on all tickets sold for performances in The Music Center and that Operator will collect such Facility User’s Fee. The Facility User’s Fee is a charge against any person purchasing a ticket to The Music Center for the privilege of using, and the right to use, the facilities thereof during their presence therein, and shall be collected by the Resident Companies and paid to Operator. Facility User’s Fees shall be used by Operator from time to time to make purchases of, or repairs or improvements to, furniture, fixtures, equipment, facilities, information and performance technology systems, and, subject to County prior approval, Capital Improvements, or the financing thereof, which enhance, or are otherwise reasonably appropriate for use in connection with, performances, rehearsals and audience services in, on or about The Music Center and the Walt Disney Concert Hall (the “**Expenditure Standard**”). All Facility User’s Fees collected pursuant to this section shall be deposited into a separate, interest-bearing account, and Operator shall make arrangements to provide that such account may be viewed by the County at any time (subject to outages and maintenance which may occur at the financial institution at which such account is held) for informational and audit purposes. On or before April 1 of each fiscal year, Operator shall submit to County for County’s written approval a plan detailing Operator’s anticipated use of the Facility User’s Fees that are expected to be collected in the upcoming fiscal year (the “**Facility User’s Fee Plan**”). If County has not approved or disapproved the Facility User’s Fee Plan within sixty (60) days following the date of its submission, it shall be deemed approved by County. On or prior to September 30 of each fiscal year,

Operator shall submit a reconciliation of actual uses of Facility User's Fees for the prior fiscal year against the Facility User's Fee Plan for such prior fiscal year.

(2) Any use of the Facility User's Fee by Operator that: (a) does not comply with the Expenditure Standard and/or the Facility User's Fee Plan that was approved by the County for that year and is not an expenditure for Emergency Maintenance as permitted in Section 5(f)(2) hereof; or (b) constitutes a Capital Improvement as defined in Section 5(f)(2) hereof, shall require the prior written consent of the County CEO.

(k) This Section 9 shall apply beginning with the Annual Budget for fiscal year beginning July 1, 2018. Prior to such time, the terms of Section 9 of the Original Sublease (as amended by the Prior Amendments) shall apply.

#### Section 10. **Financial Interest.**

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

(b) Operator shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Amended Lease (collectively, "**Conflict of Interest Laws**"). Operator warrants that it is not now aware of any facts that would violate the Conflict of Interest Laws. If Operator hereafter becomes aware of any facts that might reasonably be expected to violate Conflict of Interest Laws, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.

(c) The prohibitions in Section 10(a) and Section 10(b) shall not prevent any officer, director or employee of Operator from serving as an officer, director or employee of any non-profit corporation or association entering into a Long Term Sublease with Operator pursuant to Section 7(b) hereof. However, at no time shall more than one-half of the members of the Board of Directors of Operator be officers, directors or employees of any such non-profit corporations or associations.

#### Section 11. **Assignment.**

Operator shall not assign its interest under this Amended Lease (or any portion thereof) without the County's written consent, which consent shall not be unreasonably withheld; provided, however, that any assignee of Operator's interest must be a qualified 501(c)(3) Organization.

Section 12. **Notices, County Approval.**

(a) Any notice, request, consent, or approval which either party hereto is required or permitted to give or cause to be given to the other shall be in writing and shall be delivered or addressed to such other party at the address set forth below or to such other address as that party may from time to time direct by notice given in the manner herein prescribed, and such notice, request, consent or approval shall be deemed to have been given or made which was communicated by personal delivery or by independent courier service; or if by mail then the earlier to occur of when actually received or on the third (3rd) business day after the deposit thereof in the United State Mail in Los Angeles County, California, postage prepaid, registered or certified, addressed as hereinafter provided; or, for notice of Emergency Maintenance only, when an email message is sent to the applicable address below. All notices, requests, consents and approvals shall be addressed as follows:

If to County:

County of Los Angeles  
713 Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012  
Attention: Chief Executive Officer  
Emergency Maintenance Notice Only: to the email address of the County operations budget analyst then assigned to The Music Center, with copy to [contractsunit@ceo.lacounty.gov](mailto:contractsunit@ceo.lacounty.gov)

with a copy to:

County of Los Angeles  
648 Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012  
Attention: County Counsel  
Emergency Maintenance Notice Only: to the email address of the County Counsel then serving, with a copy to the attorney within the Office of the County Counsel then assigned to The Music Center, if known

If to Operator:

Performing Arts Center of Los Angeles County  
135 North Grand Avenue  
Los Angeles, California 90012  
Attention: Executive Vice President/Chief Operating Officer

(b) All approvals, waivers, consents and actions of County required pursuant to this Amended Lease may be given or taken by the County CEO on behalf of County, and shall be deemed binding upon County except that said County CEO shall have no authority

to amend, modify or terminate this Amended Lease without the approval of the Board of Supervisors of County, except as otherwise expressly provided in Section 6(i) hereof.

**Section 13. Operating Memoranda.**

It is recognized that the operation and maintenance of The Music Center will require a close degree of cooperation between Operator and County. It is further realized that experience will demonstrate changes that will be required in the methods of accomplishing these purposes and a certain degree of flexibility will be required; and that it is to preserve such flexibility that certain items have been covered in this Amended Lease in general terms only with the understanding that details may be set forth in operating memoranda to be entered into from time to time between Operator and County to supplement this Amended Lease. Each operating memorandum shall be approved in writing by the authorized representatives of Operator and County and may be changed and amended from time to time. County's CEO is hereby authorized to approve and execute such memoranda on behalf of the County Board of Supervisors.

**Section 14. Miscellaneous.**

(a) The paragraph or section headings contained herein are inserted herein only for convenience and are in no way to be construed as part of this Amended Lease, or as indicative of the meaning of the provisions of this Amended Lease or the intention of the parties, or as a limitation in the scope of the particular Articles or Sections to which they refer.

(b) The parties acknowledge that this Amended Lease supersedes, amends and restates the Original Sublease (together with all Prior Amendments thereto) in its entirety, and such Original Sublease (together with all Prior Amendments thereto) is no longer in force or effect, except as and to the extent set forth in Section 9(k) above; provided, that this Amended Lease shall not act as a release or waiver of liability (including indemnification obligations) of any party arising under the Original Sublease (together with all Prior Amendments thereto) prior to the Effective Date.

(c) If any section, subsection, sentence, clause or phrase of this Amended Lease, or the application thereof, to either party, or any other person or circumstance is for any reason held invalid, it shall be deemed severable and the validity of the remainder of the this Amended Lease or the application of such provision to the other party, or to any person or circumstance shall not be affected thereby.

(d) County covenants and agrees that upon Operator's timely performing and observing all of the covenants and provisions of this Amended Lease on Operator's part to be performed and observed, Operator shall peaceably and quietly enjoy The Music Center without disturbance by anyone (subject to the terms and conditions of this Amended Lease and all requirements of law and all matters of record). Subject to the preceding sentence, County makes no warranty whatsoever with respect to title to The Music Center.

(e) Subject to the conditions set forth in this Amended Lease, the performance of either party's non-monetary obligations hereunder shall not be deemed to be in default where delays are due to Force Majeure Events. The party claiming any such Force Majeure

Event shall promptly notify the other party of the occurrence of such delay. Any extension of time for any Force Majeure Event shall be given only for the period of time commencing upon the date that such Force Majeure Event actually prevents the obligated party from performing its obligations hereunder, and ending when such Force Majeure Event ceases to prevent the obligated party from performing its obligations hereunder. Each party agrees to use reasonable efforts to minimize any such period of Force Majeure Event.

(f) This Amended Lease shall be governed exclusively by the provisions hereof and by the internal laws of the State of California. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Amended Lease invalid, unenforceable or unrecoverable under any applicable law.

(g) This Amended Lease sets forth all of the agreements, conditions and understandings between County and Operator relating to the leasing of The Music Center by Operator, and the maintenance and operation of The Music Center, and there are no promises, agreements, conditions, understandings, warranties or representations, oral or written, expressed or implied, between the parties regarding the subject matter of this Amended Lease other than as set forth or referred to herein.

(h) No statement, action or agreement hereafter made shall be effective to amend, waive, modify, discharge, terminate or effect an abandonment of this Amended Lease in whole or in part unless such agreement is in writing and signed by the party against whom such amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

(i) Except as specifically set forth herein, the covenants and agreements herein contained shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

(j) The parties agree that each party and its counsel have reviewed and revised this Amended Lease and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Amended Lease or any amendments or exhibits hereto.

(k) Nothing in this Amended Lease shall be deemed to create a partnership or joint venture between the parties or to render either party liable in any manner for the debts or obligations of the other.

(l) No member, official or employee of either party shall be personally liable to any other party, or any successor in interest, in the event of any default or breach by Operator or County or for the performance of any obligation or payment which shall become due or owing hereunder.

(m) No failure by either party to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of any such term. No waiver of any breach shall

affect or alter this Amended Lease, which shall continue in full force and effect, or the respective rights of either party with respect to any other then existing or subsequent breach.

**Section 15. Defaults and Remedies.**

(a) **Operator Defaults.** The following shall constitute events of default hereunder by Operator and a breach of this Amended Lease (each of which is referred to herein as an “**Operator Event of Default**”):

(1) Operator’s assignment of its interest under this Amended Lease (or any portion thereof) in contravention of Section 11 above;

(2) Operator’s failure to obtain or maintain any of the insurance coverage required to be maintained pursuant to Section 5(i)(2), and shall fail to obtain such insurance within fifteen (15) business days after Operator’s receipt of written notice from County, which notice must specifically state that if Operator shall not procure such insurance coverage within fifteen (15) business days after Operator’s receipt of such notice, then County may procure such insurance coverage on Operator’s behalf;

(3) Operator’s failure to perform or comply with any of the agreements, terms, covenants or conditions hereof on Operator’s part to be performed or complied with hereunder and such non-performance or noncompliance shall continue for a period of sixty (60) days after Operator’s receipt of written notice from County or, if such performance cannot reasonably be completed within such sixty (60) day period, then, subject to Force Majeure Events, Operator shall not have commenced such performance in good faith within such sixty (60) day period or shall not diligently and continuously proceed therewith to completion of such performance within a reasonable period after its receipt of the aforementioned written notice.

(b) **County’s Remedies.**

(1) **Termination.** Upon the occurrence of an Operator Event of Default, and at any time thereafter until Operator shall have cured such Operator Event of Default, then County shall have the right to terminate this Amended Lease and Operator’s right to possession of The Music Center by giving written notice of such termination to Operator, which notice shall specify the Operator Event of Default claimed and the date for termination, and upon such date this Amended Lease and Operator’s leasehold estate and right to possession of The Music Center under this Amended Lease shall terminate, as if the date of termination were the expiration date of the term of this Amended Lease. After such termination of this Amended Lease, County may remove in accordance with applicable law any or all persons in possession of The Music Center, and take possession thereof.

(2) **Passage of Title to County.** If this Amended Lease shall be terminated as provided above, all of the right, title, estate and interest of Operator



in and to (a) The Music Center, including, without limitation, the Improvements and any alterations thereto, (b) all insurance policies (except blanket policies) with respect to the Improvements, and all proceeds thereof, and (c) subject to Section 3(a), all personal property located at and/or used in connection with The Music Center, except for Operator's Equipment, shall automatically pass to, vest in and belong to County without further action on the part of either party, free of any claim thereto by Operator. Nothing in clause (a) of the previous sentence is intended to in any way modify or limit Section 3(a) above.

(3) **Right to Cure.** Subject to any applicable conditions and limitations set forth elsewhere in this Amended Lease, at any time that an Operator Event of Default shall have occurred and be continuing, County may, if it so desires in County's sole and absolute discretion and without any obligation whatsoever to do so, perform or cause to be performed any of Operator's unperformed obligations hereunder. County may enter The Music Center for the purpose of correcting or remedying any default and remain therein until such Operator Event of Default has been corrected or remedied, but such performance by County shall not be deemed either to waive or release any Operator Event of Default or the right of County to take any action provided herein in the case of such Operator Event of Default. The amount of any cost, expense or expenditure incurred by County in connection therewith together with interest thereon from the date paid by County shall be payable by Operator to County on demand from funds other than County Funds. No such action by County shall terminate this Amended Lease or Operator's right to possession.

(4) **Suit for Damages.** At any time that an Operator Event of Default shall have occurred and be continuing, or at any time after termination of this Amended Lease pursuant to Section 15(b)(1) above, County may sue to recover from Operator any and all damages necessary to compensate County for the detriment proximately caused by Operator's failure to perform its obligations under this Amended Lease, including, but not limited to, (a) all amounts payable hereunder which are due, owing and unpaid by Operator to County at the time any such suit is brought, and (b) in the case of termination, such costs and expenses as County may incur in recovering possession of The Music Center, removing persons or property therefrom, and in connection with the appointment of and the performance by a receiver to protect The Music Center. Suit or suits for the recovery of any deficiency or damages may be brought by County from time to time at County's election.

(5) **Remedies Cumulative.** In the event of a breach of this Amended Lease by Operator, County shall have the right of injunction to restrain the same and the right to invoke any remedy allowed by law or in equity, as if specific remedies, indemnity or reimbursement were not herein provided. The provision in this Amended Lease for any remedy shall not preclude County from any other remedy at law or in equity, and the rights and remedies given to County in this Amended Lease are distinct, separate and cumulative, and no one of them, whether or not exercised by County, shall be deemed to be in exclusion of any other right

or remedy provided herein, by law or equity, or pursuant to any other agreement between County and Operator.

(c) **County Defaults.** It shall constitute an event of default hereunder by County and a breach of this Amended Lease (a “**County Event of Default**”) if County shall fail to perform or comply with any of the agreements, terms, covenants or conditions hereof on County’s part to be performed or complied with hereunder and such non-performance or noncompliance shall continue for a period of sixty (60) days after County’s receipt of written notice from Operator or, if such performance cannot reasonably be completed within such sixty (60) day period, then, subject to Force Majeure Events, County shall not have commenced such performance in good faith within such sixty (60) day period or shall not diligently and continuously proceed therewith to completion of such performance within a reasonable period after its receipt of the aforementioned written notice.

(d) **Operator’s Remedies.**

(1) **Termination.** At any time that a County Event of Default shall have occurred and be continuing, Operator shall have the right to terminate this Amended Lease by giving written notice of such termination to County, which notice shall specify the County Event of Default claimed and the date for termination, and upon such date this Amended Lease and Operator’s leasehold estate and right to possession of The Music Center under this Amended Lease shall terminate, as if the date of termination were the expiration date of the term of this Amended Lease.

(2) **Right to Cure.** Subject to any applicable conditions and limitations set forth elsewhere in this Amended Lease, at any time that a County Event of Default shall have occurred and be continuing, Operator may, if it so desires in Operator’s sole and absolute discretion and without any obligations whatsoever to do so, perform or cause to be performed any of County’s unperformed obligations hereunder. Such performance by Operator shall not be deemed either to waive or release or excuse any County Event of Default or the right of Operator to take any action provided herein or permitted by law in the case of such County Event of Default. The amount of any cost, expense or expenditure incurred by Operator in connection therewith together with interest thereon from the date paid by Operator shall be payable by County to Operator on demand. No such action by Operator shall terminate this Amended Lease or Operator’s right to possession hereunder.

(3) **Suit for Damages.** At any time that any County Event of Default shall have occurred and be continuing, or at any time after termination of this Amended Lease pursuant to Section 15(d)(1) above, Operator may sue to recover from County any and all damages necessary to compensate Operator for the detriment proximately caused by County’s failure to perform its obligations under this Amended Lease, including, without limitation, all amounts payable hereunder which are due, owing and unpaid by County to Operator at the time any such suit is brought, including, without limitation, recovering the cost incurred by Operator of performing County’s obligations in default hereunder. Suit or suits for the

recovery of any deficiency or damages may be brought by Operator from time to time at Operator's election.

(4) **Remedies Cumulative.** At any time that a County Event of Default shall have occurred and be continuing, Operator shall have the right of injunction to restrain the same and the right to invoke any remedy allowed by law or in equity, as if specific remedies, indemnity or reimbursement were not herein provided. The provision in this Amended Lease for any remedy shall not preclude Operator from exercising any other remedy at law or in equity upon the occurrence of a County Event of Default hereunder, and the rights and remedies given to Operator in this Amended Lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Operator, shall be deemed to be in exclusion of any other right or remedy provided herein, by law or equity, or pursuant to any other agreement between Operator and County.

#### Section 16. **Dispute Resolution.**

(a) **Delegates.** In the event any dispute arises between Operator and County in connection with their respective obligations hereunder, the notifying party shall provide written notice to the other party of its intent to invoke this Section 16(a) to resolve the dispute and containing a brief statement of the issues concerning the dispute, a brief statement of that party's factual and legal contentions relating to the dispute and any amount claimed. Within ten (10) days after receipt of such written notice, each of County's CEO and Operator shall appoint two designated representatives (the "**Delegates**") knowledgeable in the area of the dispute to meet for the purpose of resolving the dispute. The Delegates will meet as soon as reasonably practicable after their appointment as Delegates and negotiations shall continue until the earliest of the date that (i) the dispute is resolved, (ii) either party notifies the other party that negotiations will not result in a mutually acceptable resolution and the dispute shall be submitted to mediation in accordance with clause (b) below, or (iii) is forty-five (45) days after the date on which the Delegates first meet, or such time as the parties may otherwise agree.

(b) **Mediation.** In the event the dispute is not resolved under Section 16(a), the parties agree that the dispute shall be submitted to the Los Angeles, California Resolution Center of JAMS or other similar alternative dispute resolution organization mutually agreed upon by the parties (the "**Mediator**") for mediation by no later than fifteen (15) days after the parties fail to reach a mutually acceptable resolution described in clause (ii) of Section 16(a) above or the end of the forty-five (45) day period described in clause (iii) of Section 16(a) above. The parties will cooperate with the Mediator and one another in selecting a mediator from the Mediator's panel of neutrals within fifteen (15) days after submission of the dispute to the Mediator. If the parties are unable to reach a mutual agreement with respect to such mediator, then the Mediator shall appoint a mediator who shall be a retired or former California Superior Court or Federal court judge residing in the Los Angeles, California area. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. The parties further agree that each party will bear its own attorneys' fees and costs for the mediation.

(c) **Litigation.** If the parties fail to resolve such dispute by mediation within forty-five (45) days, or as otherwise agreed by the parties, after appointment of the mediator, either party may commence a civil action in the Los Angeles County Superior Court and if there is such an action, the prevailing party is entitled to its reasonable attorneys' fees and costs, unless the parties agree otherwise.

(d) **Courts.** Notwithstanding any term or provision to the contrary contained in this Section 16, the parties have recourse at any time to the federal and state courts of California solely for the purpose of obtaining any interim equitable relief (including a preliminary injunction or temporary restraining order) as permitted by the laws of the State of California.

Section 17. **Non-Profit Covenant.** At all times during the term of this Amended Lease, Operator shall be and remain qualified as a 501(c)(3) Organization. Operator's breach of the foregoing covenant shall constitute a material default under this Amended Lease.

Section 18. **Interest Rate.** In each case where a provision of this Amended Lease requires the payment of interest from one party to the other, such interest shall accrue at a rate equal to the rate announced by Citibank, N.A. from time to time as its prime rate or, in the event that Citibank, N.A. shall cease to announce a prime rate, then the average prime rate of the three largest domestic United States banks (measured by total assets) then announcing a prime rate.

Section 19. **Accessibility Disclosures.** In compliance with its disclosure obligations under Section 1938 of the California Civil Code, County hereby notifies Operator that, as of the Effective Date, The Music Center has not been inspected by a Certified Access Specialist ("CASp"). As such, County hereby advises Operator as follows:

"A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

\* \* \* \*

IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Music Center Operating Lease as of the date first written above.

**OPERATOR:**

**PERFORMING ARTS CENTER OF LOS ANGELES COUNTY,**  
a California non-profit public benefit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**COUNTY:**

**COUNTY OF LOS ANGELES,**  
a body corporate and politic  
of the State of California

By: \_\_\_\_\_  
Chairman, Board of Supervisors

**ATTEST:**

LORI GLASGOW  
Executive Officer

By: \_\_\_\_\_

**APPROVED AS TO FORM:**

MARY C. WICKHAM  
County Counsel

By: \_\_\_\_\_  
Principal Deputy

## APPENDIX I

### DEFINITIONS

“**501(c)(3) Organization**” means an organization that (a) meets the requirements of Section 145 of the Internal Revenue Code of 1986, as amended, and (b) is operating in reliance on a determination letter from the Internal Revenue Service (which has not been revoked or withdrawn) recognizing such organization's tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

“**County CEO**” means the Chief Executive Officer of County or a designee.

“**County Funds**” means funds received by Operator from County pursuant to Section 9 or other direct payments made by County to Operator in connection with this Amended Lease.

“**Force Majeure Events**” means war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; terrorist acts or other acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; unusually severe weather; unforeseeable periods of civil unrest; periods of national mourning; unforeseeable or unusual inability to secure necessary labor, materials or tools; acts or omissions of the other party in breach of its obligations under this Amended Lease; acts or failure to act of County or any other public or governmental agency or entity (other than County acting in its capacity as landlord) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform or excuse from performance.

“**Operations Revenue**” means (i) County Funds, (ii) gross revenue generated by Operations, (iii) gross revenue generated by any contract for any food or beverage concession, (iv) gross revenue generated from rent or other fees for the use or occupancy of facilities or space constituting The Music Center or Walt Disney Concert Hall, and (v) the Facility User's Fee.

“**Operations**” means, collectively, Operator's various obligations under Sections 5 and 6 of this Amended Lease as carried-out by the Departments set forth in **Exhibit B**, as well as Operator's production, booking and scheduling and catering operations, but specifically excludes any Programming.

“**Programming**” means Operator's presentation of artistic performances and other events and Operator's provision of arts educational programs, and administration, development and marketing for such performances, events and programs.

“**Resident Companies**” means the entities which have entered into subleases or licensee agreements with Operator having a term of one year or more for the purpose of presenting performances at the Premises or at one or more of the other venues at The Music Center. As of the Effective Date, the Resident Companies consist of Center Theater Group, Los Angeles Opera Company, Los Angeles Master Chorale, and Los Angeles Philharmonic Association.

## **EXHIBIT A**

### **PRIOR AMENDMENTS**

1. Operating Sublease Amendment No. 1 to Operating Agreement dated as of November 14, 1967 by and between County and Operator, as successor by merger to Music Center Operating Company.
2. Operating Memorandum Re Maintenance, Repair and Replacement dated as of August 24, 1972 by and between County and Operator, as successor by merger to Music Center Operating Company.
3. LA County Chief Administrative Office Executive Summary dated November 16, 1992 Re Agreement to Assign Provision of Custodial and Usher Services to The Music Center Operating Company; and LA County Chief Administrative Office Approval Letter dated November 16, 1992.
4. Agreement dated November 24, 1992 by and between County and Operator, as successor by merger to Music Center Operating Company.
5. Agreement dated May 12, 1992 by and between County and Operator, as successor by merger to Music Center Operating Company, regarding security services at The Music Center.
6. Amendment No. 1 to Agreement dated November 24, 1992 by and between County and Operator, as successor by merger to Music Center Operating Company.
7. LA County Chief Administrative Office Executive Summary dated September 7, 1993 Re Amendments to Agreements with The Music Center Operating Company – Lease Expiration Date and Facility Maintenance Services; LA County Chief Administrative Office Approval Letter dated September 7, 1993.
8. Amendment No. 1 to Agreement, dated as of September 21, 1993, by and between County and Operator, as successor by merger to Music Center Operating Company.
9. Letter agreement dated May 2, 1994 by and between County and Operator, as successor by merger to Music Center Operating Company.
10. Operating Services Agreement as of December 23, 1996 by and by and between County and Operator, as successor by merger to Music Center Operating Company.
11. Amendment No. 3 to the Operating Sublease for The Music Center of Los Angeles County, dated as of February 18, 2014, by and between County and Operator.

**EXHIBIT B**  
**DEPARTMENTS**

1. Building Maintenance
2. Custodial
3. Grounds Maintenance
4. Usher Services
5. Security Services and Safety
6. First Aid
7. Operations Management
8. Insurance



## EXHIBIT C

### PERMITTED EXPENDITURES

<b>Expenditure</b>	<b>Example Description<sup>2</sup></b>
Audio Tour Fees	Fees paid for audio devices for WDCH tours
Auto Leasing & Maintenance	Maintenance on security and engineering carts and vans
Capital Equipment Purchase	For any purchase of equipment over \$1,000, which is The Music Center's threshold for capitalization
Computer Software	Software for desktop computers
Computer Supplies	Toner, monitors, keyboards, etc.
Conference & Registration Fees	Training conference fees for security, safety, and engineering employees
Consultants & Contract Labor	Professional fees and expenses for consultants & contract labor
Depreciation	Depreciation of copy machines and computers used in operations departments
Employee Parking	Company-paid portion of employee parking
Employee Training	Training expense for employees
Equipment Rental	Rental of office or other equipment
Insurance	Property and liability insurance
Interest expense	Interest expense on capital leases of copy machines used in operations departments
Leasing	Lease expense for pagers
Maintenance	Maintenance and repair of buildings and equipment
Memberships & Dues	Dues paid to organizations such as Disaster Recovery Institute, for example
Office Stationery and Supplies	Office stationery, pencils, folders, etc.
Operational Employee Matters	Legal fees and settlement costs for operations employee matters
Other Office Expense	Fees paid to ABI for timekeeping system for Security and Ushers, for example
Outside Print and Graphic Services	Outside printing of blueprints, forms, etc.
Outside Vendor Supplies	Supplies other than office supplies and small equipment purchases less than \$1,000
Permits, Inspections & Licenses	Examples include fees paid to Fire Prevention Bureau, Department of Toxic Substances, etc.

<sup>2</sup> All descriptions are provided by way of example only and will not be construed to limit the scope of any expenditure category.

<b>Expenditure</b>	<b>Example Description<sup>2</sup></b>
Postage & Shipping	Postage, UPS, FedEx, etc.
Safety Expense	First aid kits, defibrillators, safety glasses, etc.
Salaries and Benefits	Full- and part-time salaries and benefits
Subscriptions & Periodicals	Online subscription to MSDS to monitor listed chemicals, for example
Taxes	Tax on copier leases
Telephone	Long distance/toll calls, line and equipment charges, telephone purchases
Temporary Help	Fees paid for temporary employees
Textbooks & Other Materials	Mandatory DOL posters, for example
Travel	Travel expenses to training conferences for security, safety, and engineering departments
Uniforms	Uniforms for ushers, security, building engineering

**EXHIBIT D**

**FORM OF COMPLIANCE CERTIFICATE**

[Music Center Letterhead]

[County of Los Angeles Address]

Capitalized terms not defined in this Certificate have the meanings set forth in that certain Amended and Restated Music Center Operating Lease, dated as of December \_\_, 2017.

The undersigned hereby certifies that:

(1) He/She is the duly elected [Chief Financial Officer] of Performing Arts Center of Los Angeles County, a California non-profit public benefit corporation (“PACLAC”);

(2) He/She has made, or has caused to be made under his/her supervision, a review of the expenditures by PACLAC of Operations Revenue during fiscal year 20[\_\_\_];

(3) Based on the review described in Paragraph (2) above, to his/her knowledge, Operations Revenue were, in all material respects, used only for expenditures permitted under PACLAC’s agreements with the County of Los Angeles relating to the use of such Operations Revenue during fiscal year 20[\_\_\_]; and

(4) **Schedule 1** attached hereto sets forth the detail of expenditures of (a) Operations Revenue, generally, and (b) specifically, County Funds by department (Departmental Report), for fiscal year 20[\_\_\_] based on the review described in Paragraph (2) above.

This Certificate, together with the summary set forth in Schedule 1 hereto, are made and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20[\_\_\_].

By: \_\_\_\_\_

\_\_\_\_\_  
Name:

Title:

**SCHEDULE 1**  
**Summary of Expenditures of County Funds**

## **EXHIBIT E**

### **RULES AND REGULATIONS**

1. No cameras are allowed in the theatres.
2. Food and/or drinks can be enjoyed in the lobby areas of the theaters. We kindly ask that patrons not bring these items into theater auditoriums.
3. There is no standard dress code, however, shirts and shoes are required. We recommend dress attire anywhere from business casual to formal, depending on the performance or event that you are attending.
4. One ticket per entry is allowed at The Music Center's garages. Entering and exiting parking garages with one parking ticket is not allowed.
5. Photography at The Music Center is limited to the exteriors of the theaters. Only hand-held still and video cameras are allowed. Please, no tripods.
6. The following are strictly prohibited at The Music Center:
  - a. Alcoholic Beverages outside the lobby, restaurant and plaza areas, narcotics, or illegal drugs
  - b. Damage to property
  - c. Firearms or weapons
  - d. Littering
  - e. Public intoxication
  - f. Rollerblading
  - g. Skateboarding
  - h. Smoking, other than in designated smoking areas
  - i. Unauthorized driving or parking
  - j. Unauthorized vending
  - k. Animals outside the plaza area, other than service animals

## **EXHIBIT F**

### **CONCESSIONS AND RESTAURANT CONTRACTS**

Restaurant, Food and Beverage Service and Catering License Agreement, dated as of September 16, 2002, by and between Operator and RA Music, Inc., as amended by First Amendment to Restaurant, Food and Beverage Service and Catering License Agreement, dated as of November 1, 2003, by and between Operator and RA Music, LLC as assignee of RA Music, Inc.

**EXHIBIT G**

**[INTENTIONALLY OMITTED]**

**EXHIBIT H**  
**EXISTING NAMING RIGHTS**

Donor	Architectural Element	Location
Ahmanson Foundation	Ahmanson Theatre	Ahmanson Theatre
Judy and Tom Beckmen	Founders Room	Ahmanson Theatre
Steve and Anne Hinchliffe	Founders Room	Ahmanson Theatre
John and Joan Hotchkis	Founders Room	Ahmanson Theatre
Merle and Peter Mullin	Founders Room	Ahmanson Theatre
Larry and Lee Ramer	Founders Room	Ahmanson Theatre
Various Donors	Theatre seats	Ahmanson Theatre
Various Donors in honor of Gordon Davidson	Rehearsal Room	DeLisa Building
Ahmanson Foundation	Rehearsal Room	DeLisa Building
Brindell Gottlieb	Music Center Annex	DeLisa Building
Mahlon Arnett	Conference Room	Dorothy Chandler Pavilion
Asa Call	Conference Room	Dorothy Chandler Pavilion
Harriet and Norman Beck	Green Room	Dorothy Chandler Pavilion
Dorothy Chandler	Dorothy Chandler Pavilion	Dorothy Chandler Pavilion
Contessa Cohn	Dressing Room	Dorothy Chandler Pavilion
Lloyd Rigler and Lawrence Deutsch	Conference Room	Dorothy Chandler Pavilion
John Green	Dressing Room	Dorothy Chandler Pavilion
Dona and Dwight Kendall	Kendall's Brasserie	Dorothy Chandler Pavilion
Dona and Dwight Kendall	Kendall's Brasserie Board Room	Dorothy Chandler Pavilion
Henry and Grace Salvatori	Banquet Room	Dorothy Chandler Pavilion
Mildred and Sherwood Schwartz	Rehearsal Room #4	Dorothy Chandler Pavilion
Edwin Lester	The Lester Door	Dorothy Chandler Pavilion
Marc and Eva Stern	Grand Hall	Dorothy Chandler Pavilion
Andrea Van de Kamp	Artists Entrance	Dorothy Chandler Pavilion
Various Donors	Theatre seats	Dorothy Chandler Pavilion
Various Donors	Benches	Dorothy Chandler Pavilion
Various Donors	Gold Leaf Pillars	Dorothy Chandler Pavilion



Donor	Architectural Element	Location
AnneMerie Donoghue and Leigh Crawford	Dressing Room #7	Mark Taper Forum
Edgerton Foundation	Box Office	Mark Taper Forum
Kiki and David Gindler	Dressing Room #5	Mark Taper Forum
Patty Glaser and Sam Mudie	Dressing Room #6	Mark Taper Forum
Brindell and Milton Gottlieb	Lobby	Mark Taper Forum
Brindell Gottlieb - In honor of Richard Owens	Stage Door	Mark Taper Forum
Marcia Israel Foundation	Lower Lounge	Mark Taper Forum
Jon and Lillian Lovelace	Stage	Mark Taper Forum
The Kenneth T. and Eileen L. Norris Foundation	Staircase from lobby to second floor	Mark Taper Forum
Marianna Elliott and Alan Oppenheimer	Wardrobe Room	Mark Taper Forum
Joyce Reed Rosenberg	Dressing Room S3	Mark Taper Forum
Thomas L. Safran	Staircase from lobby to lower level lounge	Mark Taper Forum
Branka, Harry and Ellen Sondheim	Elevator	Mark Taper Forum
Eugene and Marilyn Stein	Star Dressing Room #2	Mark Taper Forum
Louise and Barry Taper Family Foundation	Dressing Room #3	Mark Taper Forum
S. Mark Taper Foundation	Mark Taper Forum	Mark Taper Forum
S. Mark Taper Foundation	Auditorium	Mark Taper Forum
Sue Tsao	Dressing Room #9	Mark Taper Forum
Various Donors	Theatre seats	Mark Taper Forum
Robert Abernethy	Restaurant	Plaza
The Blue Ribbon	Garden	Plaza
Merle and Peter Mullin	Wine Bar	Plaza
Ralph M. Parsons Fdn.	Café	Plaza
Lisa Specht	Welcome Center	Plaza
Various Donors	Benches	Plaza
Various Donors	Paving Stones around the Fountain	Plaza
Various Donors	Tree Wells	Plaza

## **EXHIBIT I**

### **EVENTS**

Art installations and exhibits  
Award ceremonies  
Book readings and signings  
Catered events and receptions  
Comedy shows  
Community outreach programs  
Corporate meetings  
Concerts  
Conferences  
Educational activities  
Theatrical festivals  
Film and photo shoots  
Film and television premiers  
Fundraisers  
Graduations  
Inaugurations  
Job fairs  
Lectures  
Memorial services  
Movie screenings  
Press conferences  
Product launches and placement  
Religious services  
Speaking engagements  
Theatrical performances  
Trade shows  
Live broadcasts of the foregoing events

## **EXHIBIT J**

### **EXISTING LONG TERM SUBLEASES**

1. Amended and Restated Walt Disney Concert Hall Philharmonic Sublease dated January 3, 2007 between Operator and Los Angeles Philharmonic Association.
2. Los Angeles Master Chorale Sublease and License Agreement dated January 3, 2007 between Operator and Los Angeles Master Chorale.
3. Los Angeles Opera Sublease and License Agreement dated July 1, 2006 between Operator and Los Angeles Opera.
4. CTG Sublease and License Agreement dated July 1, 2006 between Operator and Center Theatre Group.

## EXHIBIT K

### REQUIRED PROVISIONS

For purposes of this Exhibit K, “Licensee” refers to the applicable licensee under the applicable Short Term Sublease and “License” refers to the applicable Short Term Sublease. Any of such required provisions may be made more favorable to County and/or Operator without further consent of County.

- Licensee agrees that no use shall be made of the [applicable premises] (i) which shall be (A) obscene or contrary to that certain Amended and Restated Operating Sublease by and between County and [Operator], dated [\_\_\_\_\_], 2017, as amended from time to time (the “Amended Lease”), or (B) contrary to any law of the United States of America or the State of California, or to any ordinance or regulation of the County, City of Los Angeles, or to any regulation, rule or order of any board or department of these two governmental bodies which shall claim jurisdiction, (ii) for any purpose which is (A) calculated to injure the reputation of the Premises, or of the neighborhood, or (B) of any nature likely to promote or incite civil disturbance, commotion or unrest.
- This License is subject to the terms and restrictions of license agreements, permits, consents and other approvals issued by the City of Los Angeles and County and other government entities.
- This License is subject to and subordinate to the Amended Lease, including any amendments thereto.
- Licensee represents and warrants that Licensee, and any of its officers, directors, employees, performers, volunteers and agents, is fully insured under a policy or policies (cumulative) meeting the “Required Insurance” standards, as set forth on Schedule 1 attached hereto, with an insurer or insurers having an A.M. Best rating of not less than A:VII (and in the event of multiple insurers, each of whom shall meet such standard). Any insurance maintained by the County or [Operator] shall not contribute to any Licensee coverage. Each of Licensee’s insurance policies shall include a waiver of subrogation against the County. All liability policies shall name the County as additional insured with respect to any claim or cause of action that may arise out of [the applicable Short Term Sublease].
- Licensee certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to or because of race, religion, ancestry, national origin, disability or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California. Licensee further certifies and agrees that it will deal with its subcontractors, bidders or vendors without regard to or because of race, religion, ancestry, national origin, disability or sex. Licensee shall allow [Operator] access to its records during regular business hours to verify compliance with these provisions when so requested by [Operator].

- Licensee shall indemnify, save and hold harmless County and its agents, employees and officers against any liabilities, losses, damages, claims or expenses, including reasonable attorney's fees (collectively, "Losses") that County and its agents, employees and officers may suffer or incur as a result of (x) any act or omission of Licensee or its representatives, agents, contractors, subcontractors, licensees, lessees, guests, invitees, successors and assigns (collectively, the "Licensee Parties") at, on or about the [applicable premises], or (y) any breach or violation of this License on the part of Licensee or any Licensee Party.
- It is expressly understood and agreed by Licensee, on its behalf and on behalf of the Licensee Parties, that none of Licensor's covenants, undertaking or agreements contained in this License are made or intended as personal covenants, undertaking or agreements by Licensor or any entity which is affiliated with Licensor, its parent or subsidiaries, and/or the County. It is agreed that neither Licensor, nor any entity which is affiliated with Licensor and/or the County (nor any of their respective agents, representatives, employees, contractors, subcontractors, licensees, invitees, successors and assigns) shall be liable for any loss, cost, damage, liability or expense (including, without limitation attorneys' fees) suffered or incurred by Licensee or any Licensee Party in connection with any entry onto the Licensed Premises pursuant to this License or otherwise in connection with the License Purpose.
- This License is personal to Licensee, and Licensee shall not, directly or indirectly, assign, mortgage, pledge, encumber, or otherwise transfer this License (or any interest of Licensee herein), whether by operation of law or otherwise, and shall not permit or suffer the [applicable premises] or any part thereof to be used or occupied by others, without County's prior written consent in each instance, which consent may be granted or denied by County in its sole and absolute discretion. Any assignment, mortgage, pledge, encumbrance or transfer by Licensee in contravention of the provisions of this Section [\_\_] shall be void.
- Licensee hereby covenants and agrees that it will not cause or permit any lien (including, without limitation, any mechanic's lien or like liens) or claim for lien to be asserted against the [applicable premises] or any interest therein, whether such lien or claim for lien results from or arises out of any act or omission of Licensee or any Licensee Party or any of their materialmen, or otherwise.
- Licensee acknowledges and agrees that its sole recourse in the event of any breach of this License by Licensor shall be to Licensor, and County shall not be responsible for any act or omission of Licensor.
- Licensee acknowledges and agrees that County is an intended third party beneficiary of [the foregoing provisions in this Exhibit K] and is entitled to enforce such provisions against the Licensee.

## **EXHIBIT X**

### **BENEFITS**

The Operator/sublease/subcontractors shall achieve the following social benefits:

- 1) Maintain ongoing efforts to achieve 30% local hire and 10% targeted worker hire in all construction involving the Music Center. Operator will provide annual reports on meeting these goals.
- 2) Work with the County's Workforce Development, Aging, and Community Services (WDACS)/America's Job Center of California (AJCCs) or designee to create career pathways from WDACS/AJCC's programs for employment at PACLAC or other similar organizations.
- 3) Work with Department of Consumer Affairs and Business (DCBA) and WDACS to identify and connect potential Social Enterprises (SEs) with DCBA to obtain certification and WDACS to obtain services available to support their programs.
- 4) Achieve the County established goals and maintain ongoing efforts to achieve 25% Local Small Business Enterprise (LSBE) participation and 3% Disabled Veteran Business Enterprise (DVBE) participation contracting, procuring, and subleasing. Qualifying contractors, vendors, and lessees must be certified by the County. The County will certify eligible LSBEs and DVBEs through DCBA. Operator will provide annual reports on meeting these goals. It is appropriate for the contractor to exclude contracts to large enterprises in which LSBEs are unlikely to compete, payments to governments, capital expenditures, and benefits payments when calculating overall expenditures that will be used to determine the 25%/3% utilization goals.
- 5) Work with DCBA to help identify potential LSBEs and DVBEs within the contractors/vendors/lessees that meet the qualifications for certification and connect them with DCBA to provide certification services and additional business support as needed.
- 6) Implement Labor agreements for vendors/contractors/lessees for occupation categories where an industry-appropriate union exists (e.g. UNITE HERE for restaurants, SEIU USWW for janitors, IATSE as appropriate, LA/OC Building Trades Council/PLA for construction).
- 7) Provide a semi-annual report to County on the attendance, participation in public events, including demographic profile and residence (e.g. LA County, distance traveled, etc.), in a mutually agreeable format as demonstration of good faith best efforts for community outreach. Community outreach will be supported by outside funds from sources such as private donations and fundraising.
- 8) Participate in the District Task Force, if it is formed, and encourage key tenants to participate as well. County may form or support the formation of a District Task Force

for Grand Avenue and Civic Center area to coordinate programming, promote diversity of programs, access, public safety, maintenance, homeless outreach services in the area. Membership of District Taskforce will include key stakeholders, property owners, and cultural institutions in the area.

- 9) Participate in the Jobs Task Force, if it is formed, and encourage key tenants to participate as well. County may form or support the formation of a Hospitality and Tourism Jobs Taskforce to promote Los Angeles's hotel, retail, food and beverage, creative economy and lifestyle sectors. Membership may include Los Angeles Tourism & Convention Board, Los Angeles Fashion Week, Los Angeles Food Policy Council, and Metro or Social Enterprise association.



**JOSEPH KELLY**  
TREASURER AND TAX COLLECTOR

# COUNTY OF LOS ANGELES TREASURER AND TAX COLLECTOR

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 464  
Los Angeles, California 90012  
Telephone: (213) 974-7360 Fax: (213) 687-4857  
ttc.lacounty.gov and lacountypropertytax.com

Board of Supervisors  
**HILDA L. SOLIS**  
First District  
**MARK RIDLEY-THOMAS**  
Second District  
**SHEILA KUEHL**  
Third District  
**JANICE HAHN**  
Fourth District  
**KATHRYN BARGER**  
Fifth District

November 27, 2017

TO: Supervisor Mark Ridley-Thomas, Chairman  
Supervisor Hilda L. Solis  
Supervisor Sheila Kuehl  
Supervisor Janice Hahn  
Supervisor Kathryn Barger

FROM: Joseph Kelly   
Treasurer and Tax Collector

SUBJECT: **ADVANCE NOTIFICATION OF INTENT TO NEGOTIATE SOLE SOURCE MASTER AGREEMENTS WITH KNN PUBLIC FINANCE, MONTAGUE DEROSE AND ASSOCIATES, LLC, AND PUBLIC RESOURCE ADVISORY GROUP FOR FINANCIAL ADVISORY SERVICES**

In accordance with Board Policy 5.100, Sole Source Contracts, this correspondence provides notification to your Board that the Department of Treasurer and Tax Collector (TTC) intends to enter Sole Source Master Agreements (Agreements) with KNN Public Finance (KNN), Montague DeRose and Associates, LLC (Montague), and Public Resource Advisory Group (PRAG) for the provision of financial advisory services, for a term through July 15, 2018, to allow the Department to conclude a competitive solicitation for financial advisory services.

## **BACKGROUND**

The TTC first created the Financial Advisory Services program in 1995. The program allows the Department to retain independent and specialized financial modeling skills that we utilize in the evaluation of financial proposals, debt structures, and other aspects of the Los Angeles County's debt management program. The program has served the County well by providing independent financial analysis, validation of debt structures, and augmented technical expertise.

## **JUSTIFICATION**

On April 20, 2017, the TTC released a Request for Statement of Qualifications (RFSQ) for Financial Advisory Services. The goal of the solicitation was to constitute new



Master Agreements with up to five firms, effective July 1, 2017, as the Master Agreements in effect at the time were due to expire June 30, 2017. The firms in the Master Agreements that expired are the same firms with which I intend to enter into sole source agreements.

Subsequent to the deadline for submission of Statement of Qualifications (SOQ), the Department disqualified several proposers and informed these proposers of its determination. All proposers the Department disqualified submitted requests for disqualification reviews asserting that the Department made an error in its determination. Due to the technical nature of the errors alleged, I myself reviewed the RFSQ, the request for disqualification reviews and related staff disposition, and a large sample of the SOQs submitted. Based on my review, I determined that the RFSQ was unclear regarding the circumstances in which a proposer's related business lines could create a potential conflict with the proposer's obligation under the Master Agreement. This lack of clarity also, I believe, compromised my staff's consideration of issues raised in the requests for disqualification reviews. For these reasons, subsequent to notification to your Board, I intend to cancel the RFSQ, work with subject matter experts to improve its clarity, and release a revised RFSQ soon after the New Year.

In the interim, so that I can ensure we have access to a team of Financial Advisors available, I am notifying your Board that I intend to enter into Sole Source Agreements with KNN, Montague, and PRAG, the three firms in the most recent Master Agreement, for the period from December 2017 to July 15, 2018, under the same terms and conditions as in the most recent Maser Agreement.

I believe this approach strikes the right balance between ensuring the integrity of our contract solicitation processes, and ensuring we obtain the analyses necessary to guide us in our public finance decision-making processes.

### **FUNDING**

The TTC utilizes Financial Advisory Services on an as-needed basis, matching the specific needs of the County with the best combination of skills and experience of the firms. Related costs generally do not exceed \$200,000 in any fiscal year. An appropriation of \$200,000 for this program has been included in the fiscal year 2017-18 Budget.

### **CONCLUSION**

Unless otherwise directed by your Board, within 20 business days from the date of this notification, November 27, 2017, we will proceed with sole source contract negotiations with KNN, Montague, and PRAG for Financial Advisory Services for a term through

The Honorable Board of Supervisors  
November 27, 2017  
Page 3

July 15, 2018. The TTC will return to your Board for approval of the related Master Agreements.

Should you have any questions or require additional information, please contact me directly or your staff may contact Keith Knox, Chief Deputy, at (213) 974-0703 or [kknox@ttc.lacounty.gov](mailto:kknox@ttc.lacounty.gov).

JK:KK:NK:EVT:kg

#### Attachments

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

## SOLE SOURCE CHECKLIST

Check (X)	<b>JUSTIFICATION FOR SOLE SOURCE CONTRACTS</b> Identify applicable justification and provide documentation for each checked item.
	➤ Only one bona fide source (monopoly) for the service exists; performance and price competition are not available. Monopoly is an <i>“Exclusive control of the supply of any service in a given market. If more than one source in a given market exists, a monopoly does not exist.”</i>
	➤ Compliance with applicable statutory and/or regulatory provisions.
	➤ Compliance with State and/or federal programmatic requirements.
	➤ Services provided by other public or County-related entities.
x	➤ Services are needed to address an emergent or related time-sensitive need.
	➤ The service provider(s) is required under the provisions of a grant or regulatory requirement.
	➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.
	➤ Maintenance service agreements exist on equipment which must be serviced by the original equipment manufacturer or an authorized service representative.
	➤ It is more cost-effective to obtain services by exercising an option under an existing contract.
	➤ It is in the best economic interest of the County (e.g., significant costs to replace an existing system or infrastructure, administrative cost savings and excessive learning curve for a new service provider, etc.) In such cases, departments must demonstrate due diligence in qualifying the cost-savings or cost-avoidance associated with the best economic interest of the County.

  
 \_\_\_\_\_  
 Chief Executive Office

11/21/17  
 \_\_\_\_\_  
 Date

## SOLE SOURCE REQUEST QUESTIONNAIRE

It is the policy of the County to solicit the maximum number of bids/proposals for a commodity or service from the largest relevant market and to select vendors on a competitive basis.

There are certain acquisitions which, when in the best interest of the County, can only be obtained from a sole source. Sole source acquisitions must be justified in sufficient detail to explain the basis for suspending the usual competitive procurement process.

**NOTE:** Please refer to Procedure P-3700 of the ISD Purchasing Policies and Procedures Manual.

### **DOCUMENTATION FOR SOLE SOURCE JUSTIFICATION MUST INCLUDE RESPONSES TO THE FOLLOWING QUESTIONS:**

**1. What is being requested?**

Sole Source Master Agreements for the period from December 2017 to July 15, 2018 with three firms that constituted the most recent Master Agreement for Financial Advisory Services. The three firms are: KNN Public Finance (KNN), Montague DeRose and Associates, LLC (Montague), and Public Resources Advisory Group (PRAG). The most recent Master Agreement expired on June 30, 2017.

**2. Why is the product needed – how will it be used?**

To ensure the TTC has access to a team of Financial Advisors available to assist in evaluating financial proposals, debt structures, and debt management relating to the County's debt management program by utilizing the services of independent financial advisory firms.

The TTC utilizes Financial Advisory Services on an as-needed basis, matching the specific needs of the County with the best combination of skills and experience of the firms.

**3. Is this "brand" of product the only one that meets the user's requirements? If yes, what is unique about the product?**

No. The TTC released a Request for Statement of Qualifications (RFSQ) earlier this year for Financial Advisory Services. However, some components of the RFSQ did not provide the degree of clarity regarding the circumstances in which a proposer's related business could create a potential conflict with the proposer's obligation under the Master Agreement. For that reason, the TTC intends to cancel the RFSQ, work with subject matter experts to improve its clarity, and release a revised RFSQ soon after the New Year. The interim Sole Source Master Agreements with KNN, Montague, and PRAG will ensure that the Department has access to a team of Financial Advisors.

- 4. Have other products/vendors been considered? If yes, which products/vendors have been considered and how did they fail to meet the user's requirements?**

No

- 5. Will purchase of this product avoid other costs, e.g. data conversion, etc. or will it incur additional costs, e.g. training, conversion, etc?**

No

- 6. Is the product proprietary or is it available from various dealers? Have you verified this?**

Other firms can also provide these services; however, for the reason mentioned above, it is in the County's best interest to enter into Sole Source Master Agreements with KNN, Montague, and PRAG for the period through July 15, 2018.

- 7. Reasonableness of Price. Does the County obtain a percentage discount or special discount not available to the private sector?**

Services are used on an intermittent basis, with most engagements incorporated as a cost of issuance for the financing of specific projects approved by your Board. Engagements for special studies and other projects not related to a specific project are expected not to exceed \$200,000 in any fiscal year. County does not receive any special discount.

- 8. What is the dollar value of existing equipment and the Purchase Order No. for the existing equipment?**

N/A