



August 08, 2023

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

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

1-D August 8, 2023


CELIA ZAVALA
EXECUTIVE OFFICER

Dear Commissioners:

**CONTRACT FOR MICROSOFT ENTERPRISE VOLUME LICENSING SERVICES
(ALL DISTRICTS) (3 VOTE)**

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

SUBJECT

This letter requests approval of a three-year Contract with Crayon Software Experts, LLC (Crayon), to provide Microsoft Enterprise Volume Licensing Services for the Los Angeles County Development Authority (LACDA).

IT IS RECOMMENDED THAT THE BOARD:

1. Approve and authorize the Executive Director or his designee to execute, amend, and if necessary, terminate a three-year Contract and all related documents with Crayon for Microsoft Enterprise Volume Licensing Services, in the amount of \$2,081,752.44, plus up to \$208,175.24 (10%) in pool dollars for unforeseen costs; the total maximum Contract sum for all three years will not exceed \$2,289,927.68
2. Find that approval of a Contract for Microsoft Enterprise Volume Licensing Services is not subject to the California Environmental Quality Act (CEQA) because it is not defined as a project under CEQA and does not have the potential for causing a significant effect on the environment.
3. Authorize the Executive Director or designee, upon his determination and as necessary and appropriate under terms of the contract, to amend the Contract to add or delete services and utilize

pool dollars, and if necessary, to terminate for convenience the Contract with Crayon.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of this action is to approve a Contract with Crayon for Microsoft Enterprise Volume Licensing Services, to enable the LACDA to receive licenses and software assurance benefits for Microsoft products.

The LACDA maintains Microsoft licenses to update its software needs for office computers, servers and community learning centers. The benefits of the Contract with Crayon include simplified license and compliance tracking, flexibility to upgrade to newer versions of software products, simplified budgetary planning, and unlimited web support.

The LACDA receives all licenses and rights immediately while being allowed to distribute payments over three years with no interest.

FISCAL IMPACT/FINANCING

There is no impact on the County General Fund. The three-year contract term will include \$2,081,752.44 to continue Microsoft Enterprise Volume Licensing services, and \$208,175.24 in pool dollars for unforeseen costs. The LACDA will incorporate up to \$652,757.96 in program funds into its approved Fiscal Year 2023-2024 budget for the first year of the Contract. Funds for years two and three will be included through the LACDA's annual budget approval process. The maximum contract amount for all three years of the Contract will be \$2,289,927.68, including the pool dollars.

Crayon confirm that no California sales or use taxes applies because all products for this purchase will be digitally downloaded.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Contract with Crayon and the Microsoft Enterprise Agreement have been reviewed by County Counsel. The Microsoft Enterprise Agreement is attached as Exhibit A-1 to the LACDA contract with Crayon, and if there is any conflict between the terms and conditions of the LACDA Contract and the terms and conditions of the County of Riverside Contract and Microsoft Enterprise Agreement, the LACDA Contract shall govern.

In compliance with Board Policy 6.020 "Chief Information Office Board Letter Approval", the Office of the Chief Information Officer (OCIO) reviewed the information technology (IT) components of this request and recommends Board authorization of the Contract with Crayon. The OCIO determined it does not constitute a technology-related acquisition of hardware, software, or professional services that would necessitate a formal written CIO Analysis.

ENVIRONMENTAL DOCUMENTATION

The proposed activities are exempt from the National Environmental Policy Act pursuant to 24 Code of Federal Regulations, Part 58, Section 58.34 (a)(3), because it involves administrative activities that will not have a physical impact on or result in any physical changes to the environment. These activities are not subject to the provisions of CEQA pursuant to State CEQA Guidelines 15060(c)(3) and 15378, because they are not defined as a project under CEQA and do not have the potential for

causing a significant effect on the environment.

CONTRACTING PROCESS

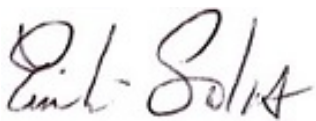
The Microsoft Enterprise Agreement will be purchased through Crayon under the County of Riverside Microsoft Agreement #8084445, via California County Information Services Directors Association (CCISDA). The CCISDA Enterprise Agreement was a formal Request for Proposals led by the County of Riverside in October 2019 to offer the lowest prices possible for State and local government customers in California statewide. Microsoft Corporation has only eight (8) selected Licensing Services Provider (LSP) partners who are qualified nationwide who can resell Microsoft Enterprise Volume for US Government licenses. The LACDA requested pricing utilizing the County of Riverside Microsoft Agreement and received four quotes from the approved Microsoft LSPs. Crayon offered the lowest quote and is being recommended for the contract award.

The County of Riverside Microsoft Agreement allows Government 2% pricing off of published reseller cost. The County of Los Angeles, Internal Service Department also leverages the County of Riverside Microsoft Agreement for all Microsoft software purchases for County Departments. The LACDA Procurement Unit has determined that the request for pricing amongst the County of Riverside Microsoft Agreement LSPs and purchase award process utilized by ISD was the most appropriate procurement process.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The Contract for Microsoft Enterprise Volume Licensing Services will improve the efficiency and effectiveness of the LACDA's administrative processes and maximize the return on the LACDA's technology investments.

Respectfully submitted,



Emilio Salas
Executive Director



Acting Chief Information Officer

ES:KT:mr

Enclosures



CONTRACT

BY AND BETWEEN

LOS ANGELES COUNTY DEVELOPMENT AUTHORITY

AND

CRAYON SOFTWARE EXPERTS, LLC.

FOR

**MICROSOFT ENTERPRISE VOLUME LICENSING
SERVICES**

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CONTRACT BETWEEN
LOS ANGELES COUNTY DEVELOPMENT AUTHORITY
AND
CRAYON SOFTWARE EXPERTS, LLC
FOR
MICROSOFT ENTERPRISE VOLUME LICNESING SERVICES

This Contract and Exhibits made and entered into this 1st day of September, 2023 by and between the Los Angeles County Development Authority, hereinafter referred to as the ("LACDA") and Crayon Software Experts, LLC, hereinafter referred to as the ("Contractor"). The LACDA and Contractor are herein referred to as collectively the ("Parties").

RECITALS

WHEREAS, the LACDA may contract with private businesses for Microsoft Enterprise Volume Licensing services when certain requirements are met;

WHEREAS, the Contractor is a private firm specializing in providing Microsoft Enterprise Volume Licensing services;

WHEREAS, on October 22, 2019, the County of Riverside awarded eight statewide contracts, with Master Agreement No. 8084445 for Microsoft Enterprise Agreement software licenses for Riverside County and surrounding Government Agencies within California.

WHEREAS, on November 8, 2011, the Contractor is an authorized Microsoft reseller County of Riverside Agreement Number 8084445 and has the ability to sell products from Microsoft schedule to government entities.

WHEREAS, on August 8, 2023, the LACDA's Board of Commissioners ("Board") delegated authority for the LACDA's Executive Director, or duly authorized designee (hereinafter jointly referred to as the ("Executive Director")) to execute contracts for Microsoft Enterprise Volume Licensing services;

WHEREAS, the Contractor agrees to comply with, submit to, and abide by all federal, State, and County rules, regulations, policies, procedures of the funding source, governing administration, and fiscal authorities; and all applicable law;

WHEREAS, the Contractor possesses the competence, financial ability, expertise, facilities, and personnel to provide the services contemplated hereunder;

WHEREAS, it is the intent of the Parties hereto to enter into Contract to provide Microsoft Enterprise Volume Licensing services ("Services"), as set forth herein;

WHEREAS, the procurement performed by the County of Riverside was reviewed and in accordance with the LACDA's procurement policy;

WHEREAS, if there is any conflict between the terms and conditions of this Contract and the terms and conditions of the County of Riverside Contract and Microsoft Enterprise Agreement, this Contract shall govern; and

WHEREAS, the Contractor is willing and able to provide the services described herein, in consideration of the payments under this Contract and under the terms and conditions hereafter set forth.

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

1.0 APPLICABLE DOCUMENTS

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

1.1 Standard Exhibits

- 1.1.1 Exhibit A - Statement of Work
- 1.1.2 Exhibit B - Fee Schedule
- 1.1.3 Exhibit C - LACDA's Administration
- 1.1.4 Exhibit D - Contractor's Administration
- 1.1.5 Exhibit E - Required Contract Forms and Certifications
 - Application for Exception and Certification Form for the Jury Service Program

- Compliance with Fair Chance Employment Hiring Practices Certification
- Attestation of Willingness to Consider GAIN/GROW
- Contractor's EEO Certification
- Defaulted Property Tax Reduction Program Certification
- Familiarity with the County Lobbyist Ordinance Certification
- Federal Lobbyist Requirements Certification
- Zero Tolerance Human Trafficking Policy Certification

1.1.6 Exhibit F - Required Contract Provisions

- Contractor Employee Jury Service Ordinance
- Defaulted Property Tax Reduction Program
- IRS Notice 1015 – Earned Income Credit (EIC)
- Lobbyist Ordinance
- Safely Surrendered Baby Law

1.1.7 Exhibit G - Required Forms at the Time of Contract Execution

- Contractor Acknowledgement and Confidentiality Agreement

1.1.8 Exhibit H - Intentionally Omitted

1.1.9 Exhibit I - Intentionally Omitted

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

2.0 DEFINITIONS

2.1 Standard Definitions

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

2.1.1 **Contract:** Agreement executed between the LACDA and Contractor.

It sets forth the terms and conditions for the issuance and performance of the Statement of Work in Exhibit A.

2.1.2 **Contractor:** The sole proprietor, partnership, or corporation that has entered into a contract with the LACDA to perform or execute the work covered by the Statement of Work in Exhibit A.

3.0 WORK

3.1 Work Requirements

3.1.1 Pursuant to the provisions of this Contract, the Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth in Exhibit A - Statement of Work, attached hereto and incorporated herein by reference.

3.1.2 The Contractor acknowledges that the quality of Service(s) provided under this Contract shall be at least equivalent to that which Contractor provides to all other clients it serves.

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

4.0 TERM OF CONTRACT

4.1 Term

4.1.1 The term of this Contract shall commence on September 1, 2023 and shall remain in full force and effect until August 31, 2026 after execution by the LACDA's Executive Director, or designee, unless

sooner terminated or extended, in whole or in part, as provided in this Contract.

4.1.2 The Contractor shall notify the LACDA's Project Manager when this Contract is within three (3) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, the Contractor shall send written notification to the LACDA's Project Manager at the address herein provided in Exhibit C - LACDA's Administration.

5.0 CONTRACT SUM

5.1 Maximum Amount

The Maximum Amount of this Contract shall be Two Million, Two Hundred Eighty-Nine Thousand Nine Hundred Twenty-Seven and 68/100 Dollars (\$2,289,927.68) ("Maximum Amount") for the term of this Contract as set forth in Paragraph 4.1 - Term, above. Any costs incurred to complete this Service in excess of the maximum not-to-exceed cost will be borne by the Contractor.

5.2 Written Approval for Reimbursement

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

5.3 Notification of 75% of Total Contract Sum

The Contractor shall maintain a system of record keeping that will allow the Contractor to determine when it has incurred seventy-five percent (75%) of the Maximum Amount under this Contract. Upon occurrence of this event,

the Contractor shall send written notification to Maryann Robles at the address herein provided in Exhibit C - LACDA's Administration.

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

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

5.5 Invoices and Payments

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

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

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

5.5.4 The Contractor shall submit the monthly invoices to the LACDA by the 1st calendar day of the month following the month of service.

5.5.5 All invoices under this Contract shall be submitted to the following address: 700 W. Main Street, Alhambra, California 91801.

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

5.6 Intentionally Omitted.

5.7 Intentionally Omitted.

6.0 ADMINISTRATION OF CONTRACT – LACDA

6.1 LACDA's Administration

A listing of all LACDA Administration referenced in the following subparagraphs is designated in Exhibit C - LACDA's Administration. The LACDA shall notify the Contractor in writing of any change in the names or addresses shown.

6.2 LACDA's Project Manager

Responsibilities of the LACDA's Project Manager include:

6.2.1 Ensuring that the objectives of this Contract are met;

6.2.2 Providing direction to the Contractor in the areas relating to LACDA policy, information requirements, and procedural requirements;

6.2.3 Meeting with the Contractor's Project Manager on a regular basis; and

6.2.4 Inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of the Contractor.

7.0 ADMINISTRATION OF CONTRACT – CONTRACTOR

7.1 Contractor's Project Manager

- 7.1.1 The Contractor's Project Manager is designated in Exhibit D - Contractor's Administration. The Contractor shall notify the LACDA in writing of any change in the name or address of the Contractor's Project Manager.
- 7.1.2 The Contractor's Project Manager shall be responsible for the Contractor's day-to-day activities as related to this Contract and shall coordinate with the LACDA's Project Manager on a regular basis.
- 7.1.3 The Contractor's Project Manager must have five years of experience.

7.2 Approval of Contractor's Staff

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

7.3 Contractor's Staff Identification

The Contractor shall provide, at Contractor's expense, all staff providing services under this Contract with a photo identification badge, which shall be visible when the Contractor or its staff is on LACDA's properties.

7.4 Background and Security Investigations

- 7.4.1 Each of the Contractor's staff performing services under this Contract who is in a designated sensitive position, as determined by the LACDA in LACDA's sole discretion, shall undergo and pass a background investigation to the satisfaction of the LACDA as a condition of beginning and continuing to perform services under this Contract. Such background investigation must be obtained through fingerprints submitted to the California Department of Justice to include State, local, and federal-level review, which may include, but shall not be limited to criminal conviction information. The fees associated with the background investigation shall be at the expense of the Contractor, regardless if the member of the Contractor's staff passes or fails the background investigation.

7.4.2 If a member of the Contractor's staff does not pass the background investigation, the LACDA may request that the member of Contractor's staff be immediately removed from performing services under the Contract at any time during the term of the Contract. The LACDA will not provide to the Contractor or to the Contractor's staff any information obtained through the LACDA's background investigation.

7.4.3 The LACDA, in its sole discretion, may immediately deny or terminate facility access to any member of Contractor's staff that does not pass such investigation to the satisfaction of the LACDA or whose background or conduct is incompatible with LACDA facility access.

7.4.4 Disqualification of any member of the Contractor's staff pursuant to this Paragraph 7.4 shall not relieve the Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

7.5 Confidentiality

7.5.1 The Contractor shall maintain the confidentiality of all records and information in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality, including, without limitation, the LACDA policies concerning information technology security and the protection of confidential records and information.

7.5.2 The Contractor shall indemnify, defend, and hold harmless the LACDA, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by the Contractor, its officers, employees, agents, or subcontractors, to comply with this Paragraph 7.5, as determined by the LACDA in its sole judgment.

Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 7.5 shall be conducted by the Contractor and performed by counsel selected by the Contractor and approved by the LACDA. Notwithstanding the preceding sentence, the LACDA shall have the right to participate in any such defense at its sole cost and expense, except that in the event the Contractor fails to provide the LACDA with a full and adequate defense, as determined by the LACDA in its sole judgment, the LACDA shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from the Contractor for all such costs and expenses incurred by the LACDA in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of the LACDA without LACDA's prior written approval.

7.5.3 The Contractor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Contract.

7.5.4 The Contractor shall sign and adhere to the provisions of the "Contractor Acknowledgement and Confidentiality Agreement", a copy which is attached in Exhibit E – Required Contract Forms and Certifications.

8.0 STANDARD TERMS AND CONDITIONS

8.1 Amendments

8.1.1 For any change which affects the scope of work, term, Maximum Amount, payments, or any term or condition included under this Contract, an Amendment shall be prepared and executed by the Contractor and Executive Director, or designee.

8.1.2 The LACDA's Board or Executive Director may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. The LACDA reserves the right to add

and/or change such provisions as required by the LACDA's Board or Executive Director. To implement such changes, an Amendment to the Contract shall be prepared and executed by the Contractor and Executive Director.

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

8.2 Assignment and Delegation/Mergers or Acquisitions

- 8.2.1 The Contractor shall notify the LACDA of any pending acquisitions/mergers of its company unless otherwise legally prohibited from doing so. If the Contractor is restricted from legally notifying the LACDA of pending acquisitions/mergers, then it should notify the LACDA of the actual acquisitions/mergers as soon as the law allows and provide to the LACDA the legal framework that restricted it from notifying the LACDA prior to the actual acquisitions/mergers.
- 8.2.2 The Contractor shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of the LACDA, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this sub-paragraph, the LACDA consent shall require a written amendment to the Contract, which is formally approved and executed by the Parties. Any payments by the LACDA to any approved delegate or assignee on any claim under this Contract shall be deductible, at the LACDA's sole discretion, against the claims, which the Contractor may have against the LACDA.

8.2.3 Shareholders, partners, members, or other equity holders of the Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of the Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of the LACDA in accordance with applicable provisions of this Contract.

8.2.4 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without the LACDA's express prior written approval, shall be a material breach of the Contract which may result in the termination of this Contract. In the event of such termination, the LACDA shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by the Contractor.

8.3 Authorization Warranty

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

8.4 Budget Reductions

In the event that the LACDA's Board adopts, in any fiscal year, a LACDA Budget which provides for reductions in the salaries and benefits paid to the majority of the LACDA employees and imposes similar reductions with respect to LACDA Contracts, the LACDA reserves the right to reduce its

payment obligation under this Contract correspondingly for that fiscal year and any subsequent fiscal year during the term of this Contract (including any extensions), and the services to be provided by the Contractor under this Contract shall also be reduced correspondingly. The LACDA's notice to the Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, the Contractor shall continue to provide all of the services set forth in this Contract.

8.5 Compliance with Applicable Laws

In the performance of this Contract, the Contractor shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference.

8.6 Compliance with Civil Rights Laws

8.6.1 The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000(e)(1) through 2000(e)(17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. The Contractor shall comply with the Contractor's EEO Certification, a copy which is attached in Exhibit E – Required Contract Forms and Certifications.

8.6.2 The Contractor shall comply with Section 109 of the Housing and Community Development Act of 1974 which states that no person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or

be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Contract.

- 8.6.3 The Contractor shall comply with the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, which require that no person in the United States shall be excluded from participating in, denied the benefits of, or subject to discrimination under this Contract on the basis of age or with respect to an otherwise qualified disabled individual.

8.7 Compliance with the County Policy of Equity

The Contractor acknowledges that the County takes its commitment to preserving the dignity and professionalism of the workplace very seriously, as set forth in the County Policy of Equity ("CPOE") (<https://ceop.lacounty.gov/>) to which the LACDA requires compliance by the Contractor. The Contractor further acknowledges that the LACDA strives to provide a workplace free from discrimination, harassment, retaliation and inappropriate conduct based on a protected characteristic, and which may violate the CPOE. The Contractor, its employees and subcontractors acknowledge and certify receipt and understanding of the CPOE. Failure of the Contractor, its employees or its subcontractors to uphold the LACDA's expectations of a workplace free from harassment and discrimination, including inappropriate conduct based on a protected characteristic, may subject the Contractor to termination of the Contract as well as civil liability.

8.8 Compliance with County's Zero Tolerance Policy on Human Trafficking

- 8.8.1 The Contractor acknowledges that the LACDA has established a Zero Tolerance Policy on Human Trafficking prohibiting contractors from engaging in human trafficking.

- 8.8.2 If a Contractor or member of the Contractor's staff is convicted of a human trafficking offense, the LACDA shall require that the Contractor or member of Contractor's staff be removed immediately from performing services under the Contract. The LACDA will not be

under any obligation to disclose confidential information regarding the offenses other than those required by law.

8.8.3 Disqualification of any member of the Contractor's staff pursuant to this paragraph shall not relieve the Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

8.9 Compliance with Fair Chance Employment Practices

The Contractor shall comply with fair chance employment hiring practices set forth in California Government Code Section 12952, Employment Discrimination: Conviction History. Contractor's violation of this paragraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, the LACDA may, in its sole discretion, terminate the Contract.

8.10 Compliance with Jury Service Program

8.10.1 Jury Service Program

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

8.10.2 Written Employee Jury Service Policy

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

fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

- B. For purposes of this sub-paragraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the LACDA or a subcontract with a Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more LACDA contracts or subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the LACDA, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any Subcontractor to perform services for the LACDA under the Contract, the Subcontractor shall also be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the subcontract agreement.
- C. If the Contractor is not required to comply with the Jury Service Program when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and the Contractor shall immediately notify the LACDA if the Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if the Contractor no longer qualifies for an exception to the Jury Service Program. In either event, the

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

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

8.11 Conflict of Interest

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

8.11.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall

immediately make full written disclosure of such facts to the LACDA. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be a material breach of this Contract.

8.12 Consideration of Hiring LACDA Employees Targeted for Layoff or Re-Employment List

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

8.13 Consideration of Hiring GAIN-GROW Participants

8.13.1 Should the Contractor require additional or replacement personnel after the effective date of this Contract, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services ("DPSS") Greater Avenues for Independence ("GAIN") Program or General Relief Opportunity for Work ("GROW") Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The LACDA will refer GAIN/GROW participants by job category to the Contractor. Contractors shall report all job openings with job requirements to: GAINGROW@DPSS.LACOUNTY.GOV and BSERVICES@WDACS.LACOUNTY.GOV and DPSS will refer qualified GAIN/GROW job candidates.

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

8.14 Contractor's Acknowledgement of LACDA's Commitment to the Safely Surrendered Baby Law

8.14.1 The Contractor acknowledges that the LACDA places a high priority on the implementation of the Safely Surrendered Baby Law. The contractor understands that it is the LACDA's policy to encourage all LACDA contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster, in Exhibit F – Required Contract Provisions, in a prominent position at the contractor's place of business. The Contractor will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. Information and posters for printing are available at www.babysafela.org.

8.14.2 Notice to Employees Regarding the Safely Surrendered Baby Law

The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The information is set forth in Exhibit F – Required Contract Provisions, Safely Surrendered Baby Law of this Contract. Additional information is available at www.babysafela.org.

8.15 Intentionally Omitted.

8.16 Contractor Responsibility and Debarment

8.16.1 Responsible Contractor

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

8.16.2 Chapter 2.202 of the County Code

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the LACDA acquires information concerning the performance of the Contractor on this or other

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

8.16.3 Non-Responsible Contractor

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

8.16.4 Contractor Hearing Board

- A. If there is evidence that the Contractor may be subject to debarment, the LACDA will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
- B. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative

proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the LACDA shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board.

- C. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board. The Board shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
- D. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The LACDA may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the LACDA.
- E. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board

will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

- F. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.16.5 Subcontractors of Contractor

These terms shall also apply to Subcontractors of the LACDA Contractors.

8.17 Contractor's Warranty of Adherence to LACDA's Child Support Compliance Program

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

8.17.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Contract to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Contract maintain in compliance with employment and wage reporting requirements as required by the

Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

8.18 Counterparts and Electronic Signatures

This Contract may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Contract. The facsimile, email or other electronically delivered signature of the Parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.

8.19 Damage to LACDA Facilities, Buildings or Grounds

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

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

8.20 Employment Eligibility Verification

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

verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by law.

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

8.21 Intentionally Omitted.

8.22 Facsimile Representations

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

8.23 Fair Labor Standards

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the LACDA and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the LACDA may be found jointly or solely liable.

8.24 Intentionally Omitted.

8.25 Force Majeure

8.25.1 The Parties agree that COVID-19 pandemic is not a force majeure event. Neither Party shall be liable for such party's failure to perform its obligations under and in accordance with this Contract, if such failure arises out of fires, floods, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this sub-paragraph as "force majeure events").

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

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

8.26 Governing Law, Jurisdiction, and Venue

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes

regarding this Contract and further and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

8.27 Indemnification

The Contractor shall indemnify, defend and hold harmless the LACDA, County, and its Special Districts, elected and appointed officers, employees, agents and volunteers ("LACDA Indemnitees") from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from and/or relating to this Contract, except for such loss or damage arising from the sole negligence or willful misconduct of the LACDA Indemnitees. To the extent that the Contractor or Subcontractor thereof is a 'design professional' as defined in Civil Code section 2782.8 (c) the indemnity herein is to be interpreted to incorporate the Civil Code section 2782.8 and in such manner to require the Contractor to indemnify the LACDA Indemnitees to the maximum extent allowable by law, and not to invalidate the Indemnity duties but instead to limit those duties to those allowed by Civil Code section 2782.8 if applicable. Similarly the indemnity duties herein are to be interpreted to be limited in extent as set forth in any other applicable limitations on indemnity including Civil Code section 2782, and 2782.05, such that the indemnity required herein is not nullified, but limited to the maximum allowed under such codes. This method of interpretation of indemnification duties will apply to any and all duties of indemnity found within this contract, such that they will be interpreted to require the indemnification as indicated to the maximum extent allowed under any applicable code, or case law interpretation instead of operating to void such clauses or requirements entirely.

8.28 Independent Contractor Status

8.28.1 This Contract is by and between the LACDA and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the LACDA and the Contractor. The employees and agents of one party shall not be, or be construed to

be, the employees or agents of the other party for any purpose whatsoever.

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

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

8.28.4 The Contractor shall adhere to the provisions stated in subparagraph 7.5 - Confidentiality.

8.29 Liquidated Damages

8.29.1 If, in the judgment of the Executive Director, or designee, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the Executive Director, or designee, at his/her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire monthly payment or deduct pro rata from the Contractor's invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from payments to the Contractor from the LACDA, will be forwarded to the Contractor by the Executive Director, or designee, in a written notice describing the reasons for said action.

8.29.2 If the Executive Director, or designee, determines that there are deficiencies in the performance of this Contract that the Executive Director, or designee, deems are correctable by the Contractor over a certain time span, the Executive Director, or designee, will provide a written notice to the Contractor to correct the deficiency within specified time frames. Should the Contractor fail to correct deficiencies within said time frame, the Executive Director, or designee, may:

- A. Deduct from the Contractor's payment, pro rata, those applicable portions of the Monthly Contract Sum; and/or
- B. Deduct liquidated damages. The Parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correct a deficiency within the specified time frame. The Parties hereby agree that under the current circumstances a reasonable estimate of such damages is One Hundred and 00/100 Dollars (\$100.00) per day per infraction, or as specified in the Performance Requirements Summary ("PRS") Chart, as defined in Appendix B (Statement of Work Exhibits), hereunder, and that the Contractor shall be liable to the LACDA for liquidated damages in said amount. Said amount shall be deducted from the LACDA's payment to the Contractor; and/or
- C. Upon giving five (5) days-notice to the Contractor for failure to correct the deficiencies, the LACDA may correct any and all deficiencies and the total costs incurred by the LACDA for completion of the work by an alternate source, whether it be LACDA forces or separate private contractor, will be deducted and forfeited from the payment to the Contractor from the LACDA, as determined by the LACDA.

8.29.3 The action noted in sub-paragraph 8.29.2 shall not be construed as a penalty, but as adjustment of payment to the Contractor to recover

the LACDA cost due to the failure of the Contractor to complete or comply with the provisions of this Contract.

8.29.4 This sub-paragraph shall not, in any manner, restrict or limit the LACDA's right to damages for any breach of this Contract provided by law or as specified in the PRS or sub-paragraph 8.29.2, and shall not, in any manner, restrict or limit the LACDA's right to terminate this Contract as agreed to herein.

8.30 Most Favored Public Entity

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

8.31 Nondiscrimination and Affirmative Action

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

8.31.2 The Contractor shall certify to, and comply with, the provisions of the Contractor's EEO Certification, a copy which is attached in Exhibit E – Required Contract Forms and Certifications.

8.31.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer,

recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

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

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

8.31.6 The Contractor shall allow LACDA representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of Paragraph 8.31 when so requested by the LACDA.

8.31.7 If the LACDA finds that any provisions of this Paragraph 8.31 have been violated, such violation shall constitute a material breach of this Contract upon which the LACDA may terminate or suspend this Contract. While the LACDA reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the LACDA that the Contractor has violated the anti-discrimination provisions of this Contract.

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

8.32 Non Exclusivity

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

8.33 Notice of Delays

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

8.34 Notice of Disputes

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

8.35 Notice to Employees Regarding the Federal Earned Income Credit

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

8.36 Notices

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

8.37 Prohibition Against Inducement or Persuasion

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

8.38 Public Records Act

8.38.1 Any documents submitted by the Contractor; all information obtained in connection with the LACDA's right to audit and inspect the Contractor's documents, books, and accounting records pursuant Section 8.41 - Record Retention and Inspection/Audit Settlement of this Contract; as well as those documents which were required to be submitted in response to the solicitation used for this Contract, become the exclusive property of the LACDA. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The LACDA shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

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

8.39 Publicity

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

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

8.39.2 The Contractor may, without the prior written consent of the LACDA, indicate in its bids and sales materials that it has been awarded this Contract with the LACDA, provided that the requirements of this Section 8.39 shall apply.

8.40 Quality Assurance Plan

8.40.1 The LACDA or its agent(s) will monitor the Contractor’s performance under this Contract on not less than an annual basis. Such monitoring will include assessing the Contractor’s compliance with all Contract terms and conditions and performance standards.

Contractor deficiencies which the LACDA determines are significant or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board and listed in the appropriate LACDA reports. The report to the Board will include improvement/corrective action measures taken by the LACDA and the Contractor. If improvement does not occur consistent with the corrective action measures, the LACDA may terminate this Contract or impose other penalties as specified in this Contract.

8.40.2 A performance review will be conducted no later than ninety (90) days prior to the end of the first and second years of this Contract to evaluate the performance of the Contractor. Based on the assessment of the performance review, as determined by the LACDA in its sole discretion, written notification will be given to the Contractor whether this Contract will be terminated at the end of the current year or will be continued into the next contract year.

8.41 Record Retention and Inspection/Audit Settlement

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that the LACDA, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Contract. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the LACDA during the term of this Contract and for a period of five (5) years thereafter unless the LACDA's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by

the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the LACDA's option, the Contractor shall pay the LACDA for travel, per diem, and other costs incurred by the LACDA to examine, audit, excerpt, copy, or transcribe such material at such other location.

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

8.41.2 Failure on the part of the Contractor to comply with any of the provisions of this Section 8.41 shall constitute a material breach of this Contract upon which the LACDA may terminate or suspend this Contract.

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

LACDA's maximum obligation for this Contract exceed the funds appropriated by the LACDA for the purpose of this Contract.

8.42 Recycled Bond Paper

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

8.43 Intentionally Omitted.

8.43.1 The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

8.43.2 The parties to this Contract agree to comply with HUD's regulations in 24 CFR Part 75, which implements Section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual obligation or other impediment that would prevent them from complying with Part 75 of the regulations.

8.43.3 The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining Contract or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under Section 3, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe Section 3, shall set forth the minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, and the name and

location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

8.43.4 The Contractor agrees to include this Section 3 contract language in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 contract language, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

8.43.5 The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 75.

8.43.6 Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

8.44 Subcontracting

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

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

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

- 8.44.3 The Contractor shall indemnify and hold the LACDA harmless with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were the Contractor employees.
- 8.44.4 The Contractor shall remain fully responsible for all performances required of it under this Contract, including those that the Contractor has determined to subcontract, notwithstanding the LACDA's approval of the Contractor's proposed subcontract.
- 8.44.5 The LACDA's consent to subcontract shall not waive the LACDA's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this Contract. The Contractor is responsible to notify its Subcontractors of this LACDA right.
- 8.44.6 The LACDA's Project Manager is authorized to act for and on behalf of the LACDA with respect to approval of any subcontract and Subcontractor employees. After approval of the subcontract by the LACDA, Contractor shall forward a fully executed subcontract to the LACDA for their files.
- 8.44.7 The Contractor shall be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the LACDA's consent to subcontract.
- 8.44.8 The Contractor shall obtain certificates of insurance, which establish that the Subcontractor maintains all the programs of insurance required by the LACDA from each approved Subcontractor. The Contractor shall ensure delivery of all such documents to the individual identified in Paragraph 8.36 - Notices before any Subcontractor employee may perform any work hereunder.

8.45 Time Off For Voting

The Contractor shall notify its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the time off for voting law (Elections Code Section 14000). Not less than 10 days before every statewide election, every Contractor and subcontractors shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of Elections Code Section 14000.

8.46 Validity

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

8.47 Waiver

No waiver by the LACDA of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of the LACDA to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Paragraph 8.47 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.48 Warranty Against Contingent Fees

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

8.48.2 For breach of this warranty, the LACDA shall have the right to terminate this Contract and, at its sole discretion, deduct from the

Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.49 Warranty of Compliance with County's Defaulted Property Tax Reduction Program

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

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

8.50 Termination for Breach of Warranty to Maintain Compliance with County's Defaulted Property Tax Reduction Program

Failure of the Contractor to maintain compliance with the requirements set forth in Paragraph 8.49 "Warranty of Compliance with County's Defaulted Property Tax Reduction Program" shall constitute default under this contract. Without limiting the rights and remedies available to the LACDA under any other provision of this contract, failure of Contractor to cure such default within 10 days of notice shall be grounds upon which the LACDA may terminate this Contract and/or pursue debarment of the Contractor, pursuant to County Code Chapter 2.206.

9.0 INSURANCE

Without limiting Contractor's indemnification of LACDA Indemnitees, and in the performance of this Contract and until all of its obligations pursuant to this Contract have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in Section 9 of this Contract. These minimum insurance coverage terms, types and limits (the

“Required Insurance”) also are in addition to and separate from any other contractual obligation imposed upon Contractor pursuant to this Contract. The LACDA in no way warrants that the Required Insurance is sufficient to protect the Contractor for liabilities which may arise from or relate to this Contract.

9.1 Insurance Coverage

9.1.1 Commercial General Liability Insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming the LACDA, its Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers (collectively "LACDA and its Agents") as an additional insured, with limits of not less than:

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

9.1.2 Intentionally Omitted.

9.1.3 Intentionally Omitted.

9.2 Additional Unique Insurance Coverage

9.2.1 Intentionally Omitted.

9.2.2 Professional Liability/Errors and Omissions

Insurance covering Contractor’s liability arising from or related to this Contract, with limits appropriate to the Contractor’s profession and not less than \$2 million per occurrence or claim and \$2 million aggregate. Further, Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Agreement’s expiration, termination or cancellation.

9.2.3 Intentionally Omitted.

9.2.4 Intentionally Omitted.

9.2.5 Technology Professional Liability Errors & Omissions Insurance

Insurance appropriate to the Contractor’s profession and work hereunder for liabilities arising from errors, omissions, or negligent acts in rendering or failing to render computer or information

technology services and technology products. Insurance shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Contractor in this Contract and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, release of private information, extortion and network security, coverage for violation of software copyright should be included. Technology services should at a minimum include (1) systems analysis; (2) systems programming; (3) data processing; (4) systems integration; (5) outsourcing including outsourcing development and design; (6) systems design, consulting, development and modification; (7) training services relating to computer software or hardware; (8) management, repair and maintenance of computer products, networks and systems; (9) marketing, selling, servicing, distributing, installing and maintaining computer hardware or software; (10) data entry, modification, verification, maintenance, storage, retrieval or preparation of data output, and any other services provided by the vendor with limits of not less than \$10 million per occurrence. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

- a. The Policy shall include, or be endorsed to include, ***property damage liability coverage*** for damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the LACDA in the care, custody, or control of the Contractor. If not covered under the Contractor’s liability policy, such “property” coverage of the LACDA may be endorsed onto the Contractor’s Cyber Liability Policy as covered property as follows:
- b. Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or

destruction of electronic data and/or information "property" of the LACDA that will be in the care, custody, or control of Contractor.

- c. The Insurance obligations under this agreement shall be the greater of (1) all the Insurance coverage and limits carried by or available to the Vendor; or (2) the minimum Insurance requirements shown in this agreement. Any insurance proceeds in excess of the specified limits and coverage required, which are applicable to a given loss, shall be available to the LACDA. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the indemnity or other obligations of the Contractor under this Contract.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the LACDA requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the LACDA..

9.2.6 Intentionally Omitted.

9.2.7 Intentionally Omitted.

9.3 Certificate of Insurance Coverage:

9.3.1 Certificate(s) of Insurance Coverage ("Certificate") satisfactory to the LACDA, and a copy of an Additional Insured endorsement confirming the LACDA and its Agents (defined below) has been given Insured status under the Contractor's General Liability policy, shall be delivered to the LACDA at the address shown below and provided prior to commencing services under this Contract.

9.3.2 Renewal Certificates shall be provided to the LACDA not less than ten (10) days prior to Contractor's policy expiration dates. The LACDA reserves the right to obtain complete, certified copies of any

required Contractor and/or Sub-Contractor insurance policies at any time.

9.3.3 Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Contract by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Contractor identified as the contracting party in this Contract.

9.3.4 Certificates shall provide the full name of each insurer providing coverage, its National Association of Insurance Commissioners ("NAIC") identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, and list any LACDA required endorsement forms.

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

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

Los Angeles County Development Authority
Administrative Services Division/Procurement Unit
700 W. Main Street, Alhambra, CA 91801
Attention: Maryann Robles, IT Procurement Analyst

9.4 Notices of Injury or Damage or Destruction

The Contractor also shall promptly report to the LACDA any injury or property damage accident or incident, including any injury to a Contractor employee occurring on the LACDA property, and any loss, disappearance, destruction, misuse, or theft of the LACDA property, monies or securities entrusted to the Contractor. The Contractor also shall promptly notify the LACDA of any third party claim or suit filed against the Contractor or any of

its sub-contractors which arises from or relates to this Contract, and could result in the filing of a claim or lawsuit against the Contractor and/or LACDA.

9.5 Additional Insured Status and Scope of Coverage

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

9.6 Cancellation of or Change to Maintain Insurance

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

9.7 Failure to Maintain Insurance

The Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Contract, upon which the LACDA immediately may withhold payments due to Contractor, and/or suspend or terminate this Contract. The LACDA, at its sole discretion, may obtain damages from Contractor resulting from said

breach. Alternatively, the LACDA may purchase the Required Insurance, and without further notice to Contractor, deduct the premium cost from sums due to Contractor or pursue Contractor reimbursement.

9.8 Contractor's Insurance Shall Be Primary

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

9.9 Insurance Specifics

9.9.1 Waivers of Subrogation

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

9.9.2 Sub-Contractor Insurance Coverage Requirements

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

9.9.3 Deductibles and Self-Insured Retentions (SIRs)

The Contractor's policies shall not obligate the LACDA to pay any portion of any Contractor deductible or SIR. The LACDA retains the

right to require the Contractor to reduce or eliminate policy deductibles and SIRs as respects the LACDA, or to provide a bond guaranteeing Contractor's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

9.9.4 Claims Made Coverage

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

9.9.5 Application of Excess Liability Coverage

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

9.9.6 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.

9.9.7 Alternative Risk Financing Programs

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

9.10 LACDA Review and Approval of Insurance Requirements

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

10.0 TERMINATION

10.1 Termination for Convenience

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

- A. After receipt of a notice of termination and except as otherwise directed by the LACDA, the Contractor shall:
- B. Stop work under this Contract on the date and to the extent specified in such notice, and
- C. Complete performance of such part of the work as shall not have been terminated by such notice.

10.1.2 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Contract shall be maintained by the Contractor in accordance with Paragraph 8.41 - Record Retention and Inspection/Audit Settlement.

10.2 Termination for Default

10.2.1 The LACDA may, by written notice to the Contractor, terminate the whole or any part of this Contract, if, in the judgment of the LACDA's Project Manager:

- A. Contractor has materially breached this Contract; or

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

10.2.2 In the event that the LACDA terminates this Contract in whole or in part as provided in sub-paragraph 10.2.1, the LACDA may procure, upon such terms and in such manner as the LACDA may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the LACDA for any and all excess costs incurred by the LACDA, as determined by the LACDA, for such similar goods and services. The Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this sub-paragraph.

10.2.3 Except with respect to defaults of any Subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in sub-paragraph 10.2.2 if its failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the LACDA in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a

Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this sub-paragraph 10.2.3, the terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) at any tier.

10.2.4 If, after the LACDA has given notice of termination under the provisions of this Paragraph 10.2, it is determined by the LACDA that the Contractor was not in default under the provisions of this Paragraph 10.2, or that the default was excusable under the provisions of sub-paragraph 10.2.3, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 10.1 - Termination for Convenience.

10.2.5 The rights and remedies of the LACDA provided in this Paragraph 10.2 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

10.3 Termination for Improper Consideration

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

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

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

10.4 Termination for Insolvency

10.4.1 The LACDA may terminate this Contract forthwith in the event of the occurrence of any of the following:

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

10.4.2 The rights and remedies of the LACDA provided in this Paragraph 10.4 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

10.5 Termination for Non-Adherence of County Lobbyist Ordinance

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

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

10.6 Termination for Non-Appropriation of Funds

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

11.0 UNIQUE TERMS AND CONDITIONS

11.1 Intentionally Omitted.

11.2 Intentionally Omitted.

11.3 Intentionally Omitted.

11.4 Data Destruction

11.4.1 Contractor(s) and vendor(s) that have maintained, processed, or stored the LACDA data and/or information, implied or expressed, have the sole responsibility to certify that the data and information have been appropriately destroyed consistent with the National Institute of Standards and Technology (NIST) Special Publication SP 800-88 titled Guidelines for Media Sanitization. (Available at: <http://csrc.nist.gov/publications/PubsDrafts.html#SP-800-88-Rev.%201>)

11.4.2 The data and/or information may be stored on purchased, leased, or rented electronic storage equipment (e.g., printers, hard drives) and electronic devices (e.g., servers, workstations) that are

geographically located within the LACDA, or external to the LACDA's boundaries. The LACDA must receive within ten (10) business days, a signed document from Contractor(s) and vendor(s) that certifies and validates the data and information were placed in one or more of the following stored states: unusable, unreadable, and indecipherable.

11.4.3 The Vendor shall certify that any LACDA data stored on purchased, leased, or rented electronic storage equipment and electronic devices, including, but not limited to printers, hard drives, servers, and/or workstations are destroyed consistent with the current National Institute of Standard and Technology ("NIST") Special Publication SP-800-88, Guidelines for Media Sanitization. The Vendor shall provide the LACDA with written certification, within ten (10) business days of removal of any electronic storage equipment and devices that validates that any and all LACDA data was destroyed and is unusable, unreadable, and/or undecipherable.

11.5 Intentionally Omitted.

11.6 Intentionally Omitted.

11.7 Intentionally Omitted.

11.8 Ownership of Materials, Software and Copyright

11.8.1 The LACDA shall be the sole owner of all right, title and interest, in and to all plans, diagrams, facilities, and tools (hereafter "materials") which are originated or created through the Contractor's work pursuant to this Contract. The Contractor, for valuable consideration herein provided, shall execute all documents necessary to assign and transfer to, and vest in the LACDA all of the Contractor's right, title and interest in and to such original materials, including any copyright, patent and trade secret rights which arise pursuant to the Contractor's work under this Contract.

11.8.2 During the term of this Contract and for five (5) years thereafter, the Contractor shall maintain and provide security for all of the

Contractor's working papers prepared under this Contract. LACDA shall have the right to inspect, copy and use at any time during and subsequent to the term of this Contract, any and all such working papers and all information contained therein.

11.8.3 Any and all materials, software and tools which are developed or were originally acquired by the Contractor outside the scope of this Contract, which the Contractor desires to use hereunder, and which the Contractor considers to be proprietary or confidential, must be specifically identified by the Contractor to the LACDA's Project Manager as proprietary or confidential, and shall be plainly and prominently marked by the Contractor as "Proprietary" or "Confidential" on each appropriate page of any document containing such material.

11.8.4 The LACDA will use reasonable means to ensure that the Contractor's proprietary and/or confidential items are safeguarded and held in confidence. The LACDA agrees not to reproduce, distribute or disclose to non-LACDA or non-County entities any such proprietary and/or confidential items without the prior written consent of the Contractor.

11.8.5 Notwithstanding any other provision of this Contract, the LACDA will not be obligated to the Contractor in any way under Paragraph 11.8 for any of the Contractor's proprietary and/or confidential items which are not plainly and prominently marked with restrictive legends as required by sub-paragraph 11.8.3 or for any disclosure which the LACDA is required to make under any state or federal law or order of court.

11.8.6 All the rights and obligations of this Paragraph 11.8 shall survive the expiration or termination of this Contract.

11.9 Patent, Copyright and Trade Secret Indemnification

11.9.1 The Contractor shall indemnify, hold harmless and defend the LACDA from and against any and all liability, damages, costs, and

expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to the operation and utilization of the Contractor's work under this Contract. The LACDA shall inform the Contractor as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure, and shall support the Contractor's defense and settlement thereof.

11.9.2 In the event any equipment, part thereof, or software product becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that the LACDA's continued use of such item is formally restrained, enjoined, or subjected to a risk of damages, the Contractor, at its sole expense, and providing that the LACDA's continued use of the system is not materially impeded, shall either:

- A. Procure for the LACDA all rights to continued use of the questioned equipment, part, or software product; or
- B. Replace the questioned equipment, part, or software product with a non-questioned item; or
- C. Modify the questioned equipment, part, or software so that it is free of claims.

11.9.3 The Contractor shall have no liability if the alleged infringement or unauthorized disclosure is based upon a use of the questioned product, either alone or in combination with other items not supplied by the Contractor, in a manner for which the questioned product was not designed nor intended.

11.10 Intentionally Omitted.

11.11 Intentionally Omitted.

[Signatures on the following page]

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SIGNATURES

IN WITNESS WHEREOF, the LACDA and the Contractor, through their duly authorized officers, have executed this Contract as of the date first above written.

CONTRACTOR: CRAYON SOFTWARE
EXPERTS, LLC

By _____
Ken Pharr
Vice President of Finance

LOS ANGELES COUNTY DEVELOPMENT
AUTHORITY

By _____
Emilio Salas
Executive Director

APPROVED AS TO FORM:
DAWYN R. HARRISON
County Counsel

APPROVED AS TO PROGRAM:
ADMINISTRATIVE SERVICES DIVISION

By _____
Behnaz Tashakorian
Principal Deputy County Counsel
OR
Elizabeth Pennington
Deputy County Counsel

By _____
Kathy Thomas
Chief of Operations