

# **Attachment A**

**Professional Services Agreement with  
Technologent, Inc.**

## 1. AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

**THIS AGREEMENT** ("Agreement") is made by and between the County of Santa Barbara, a political subdivision of the State of California ("COUNTY" or "Customer" or "Client") and [Technogent, Inc., a California corporation], with an address at 100 Spectrum Center Drive, Ste. 700, Irvine, CA 92618 ("CONTRACTOR" or "Vendor" or "Technogent") and together with COUNTY, collectively, the "Parties" and each a "Party").

**WHEREAS**, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special professional services required by COUNTY and is willing to perform such services, and COUNTY desires to retain the services of CONTRACTOR, pursuant to the terms, covenants, and conditions herein set forth;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

### 1. DESIGNATED REPRESENTATIVE

Virginia Butterfield at phone number (805) 568-2607 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Tom King at phone number (949) 230-6061 is the authorized representative for CONTRACTOR. Changes to a Party's designated representative as specified in this Section 1 shall be made only after advance written notice to the other Party.

### 2. NOTICES

All notices, claims, waivers, consents and other communications required or permitted to be given under this Agreement (each a "Notice") shall be in writing and addressed to the receiving Party at its address set forth below (or to such other address that such receiving Party may designate from time to time in accordance with this Section), by personal delivery, facsimile, by first class mail via the United States Postal Service ("USPS"), registered or certified mail, or nationally recognized overnight courier service (in each case, return receipt requested, postage prepaid):

To COUNTY: ITD Finance, County of Santa Barbara, 105 E. Anapamu Street, Santa Barbara, CA 93101  
To CONTRACTOR: Technogent, Inc., 100 Spectrum Center Drive, Ste. 700, Irvine, CA 92618

If sent by first class mail, Notices shall be deemed to be received five (5) days following their deposit in the USPS mail. This Notices section shall not be construed as meaning that either Party agrees to service of process except as required by applicable law.

### 3. SCOPE OF SERVICES

CONTRACTOR shall provide to COUNTY all of the services and deliverables (the "Services") set forth in the Statement of Work attached hereto as Exhibit A and incorporated herein by reference ("Statement of Work"). No Service Orders or change orders hereunder shall be effective or deemed accepted and incorporated into this Agreement unless in accordance with the Numbered Sections of this Agreement (defined below) and the Exhibits attached hereto and signed by both (a) the designated representative of CONTRACTOR set forth in Section 1, above, and (b) the Chair of the COUNTY Board of Supervisors, or COUNTY representative who has been expressly delegated such authority by the COUNTY Board of Supervisors ("Board") concurrently with the Board's approval of this Agreement; provided, however, that no Service Order or Change Order may extend the Term or increase or exceed the Maximum Contract Amount (defined in Exhibit B, below).

### 4. TERM

The initial term of this Agreement shall commence on the Effective Date (defined below) and shall terminate no later than the date that is one year after the Effective Date, unless earlier terminated in accordance with the

provisions of this Agreement (“Initial Term”); provided, however, that COUNTY shall have the option to extend the term of this Agreement beyond the Initial Term for up to four (4) additional years (each an “Option Period” and together with Initial Term, collectively, the “Term”) by providing CONTRACTOR with written notice (each, an “Option Exercise Notice”), no later than 30 days prior to the expiration of the then-current Initial Term or Option Period, that the COUNTY is exercising its option to extend the Term of this Agreement by one Option Period. Absent such Option Exercise Notice, the Term of this Agreement shall expire, and this Agreement shall terminate, at the end of the then-current Initial Term or Option Period. For clarity, any extension of the Term for each year will be subject to applicable fee adjustments based on market conditions and any annual rate increase may not exceed three percent (3%), as determined by the U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U), capped at a maximum increase of three percent (3%) per year.

**5. COMPENSATION OF CONTRACTOR**

In full consideration for CONTRACTOR’s services, CONTRACTOR shall be paid for performance of the Services under this Agreement in accordance with the terms of EXHIBIT B, attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY, delivered to COUNTY at the address for Notices to COUNTY set forth in Section 2, above, following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from delivery of invoice.

**6. INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees) shall perform all of the Services under this Agreement as an independent contractor as to COUNTY, and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations hereunder in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including, but not limited to, vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR’s employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the Term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement. CONTRACTOR has no authority to commit, act for or on behalf of COUNTY, or to bind COUNTY to any obligation or liability.

**7. STANDARD OF PERFORMANCE**

CONTRACTOR certifies that it has the skills, expertise, and all licenses and permits necessary to perform the Services. Accordingly, CONTRACTOR shall perform all such Services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner, and shall conform to the highest standards of quality observed by professionals practicing in CONTRACTOR's profession. CONTRACTOR shall correct any errors or omissions in the performance of the Services, at COUNTY'S request without additional compensation. CONTRACTOR has and shall, at CONTRACTOR’s sole cost and expense, all times during the Term, maintain in effect all permits, licenses, permissions, authorizations, and consents required by applicable law or otherwise necessary to carry out CONTRACTOR’s obligations under this Agreement. CONTRACTOR is in compliance with and shall at all times during the Term comply with all applicable laws, regulations, and ordinances.

**8. DEBARMENT AND SUSPENSION**

CONTRACTOR certifies to COUNTY that none of it or its employees or principals are debarred, suspended, or otherwise excluded from or ineligible for participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

**9. TAXES**

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement, and shall make any and all payroll deductions required by law. CONTRACTOR is responsible for all CONTRACTOR personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits. In no event shall COUNTY pay or be responsible for any taxes imposed on, or with respect to, CONTRACTOR's income, revenues, gross receipts, personnel, real or personal property, or other assets. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

**10. CONFLICT OF INTEREST**

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

**11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR

hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement. Notwithstanding the foregoing:

**A. Background IP.** CONTRACTOR retains all right, title, and interest in and to any methodologies, tools, utilities, templates, know-how, processes, software (including source code), documentation, inventions, and other materials that (i) were developed by or for CONTRACTOR prior to the Effective Date, or (ii) are developed by CONTRACTOR outside the scope of this Agreement without use of information or documentation provided by or on behalf of COUNTY or information or documentation accessed by or on behalf of CONTRACTOR from COUNTY sources ("Background IP"). No Background IP is assigned to COUNTY under this Agreement.

**B. License to Background IP** (as needed). To the extent any Background IP is incorporated into or necessary to use any deliverable provided to COUNTY under this Agreement, CONTRACTOR grants COUNTY a perpetual, nonexclusive, worldwide, royalty-free license to use, execute, reproduce, display, perform, and create derivative works of such Background IP solely for COUNTY's internal business and governmental purposes and to support COUNTY's use of the deliverables. COUNTY may permit its contractors and service providers to exercise the foregoing rights on COUNTY's behalf, provided they are bound by confidentiality and use restrictions consistent with this Agreement.

**12. NO PUBLICITY OR ENDORSEMENT**

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY in each instance.

**13. COUNTY PROPERTY AND INFORMATION**

All of COUNTY's property, documents, information, and data provided to or accessed by or on behalf of CONTRACTOR in connection with the Services, including, without limitation, all data collected, used, maintained, processed, stored, or generated by or on behalf of COUNTY in connection with this Agreement ("COUNTY Property") and any derivative works of the COUNTY Property shall remain COUNTY's property, and CONTRACTOR shall return or delete COUNTY Property whenever requested by COUNTY, and whenever required in accordance with Section 19 of this Agreement. CONTRACTOR may use COUNTY Property solely for the purpose of, and only to the extent necessary for, CONTRACTOR's provision of the Services hereunder. CONTRACTOR shall not disclose, disseminate, publish, or transfer to any third party, any COUNTY Property without COUNTY's prior written consent.

**14. RECORDS, AUDIT, AND REVIEW**

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession, and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final

payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

COUNTY's audit rights under this Section are limited to records in connection with CONTRACTOR's performance and billing under this Agreement for purposes of verifying compliance with this Agreement. COUNTY will exercise audit rights no more than once per twelve (12) month period unless COUNTY has a reasonable basis to believe there has been fraud or a material billing error. Audits will be conducted during normal business hours, with at least 30 days' prior written notice.

**15. INDEMNIFICATION AND INSURANCE**

CONTRACTOR agrees to and shall comply with the indemnification and insurance provisions as set forth in EXHIBIT C, attached hereto and incorporated herein by reference.

**16. NONDISCRIMINATION**

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

**17. NONEXCLUSIVE AGREEMENT**

CONTRACTOR understands that this is not an exclusive Agreement, and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

**18. NON-ASSIGNMENT**

CONTRACTOR shall not assign, subcontract, delegate, or otherwise transfer, directly or indirectly, whether by operation of law or otherwise ("Transfer") this Agreement, or any of CONTRACTOR's rights or obligations under this Agreement, without the prior written consent of COUNTY in each instance. Any attempted or purported Transfer in violation of this Section 18 shall be null and void and without legal effect and shall constitute grounds for termination. No Transfer shall relieve CONTRACTOR of any of its obligations hereunder.

**19. TERMINATION**

A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill its obligations hereunder.

1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.

2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, State or COUNTY governments, or sufficient funds are not otherwise available for payments hereunder in the fiscal year(s) covered by the Term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence, and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the Term.

3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of the provisions hereof, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part upon written notice ("Termination Notice"). Upon receipt of such Termination Notice, CONTRACTOR shall immediately discontinue all Services (unless otherwise directed in such Termination Notice) and notify COUNTY in writing of the status of CONTRACTOR's performance of Services hereunder. The date of termination shall be the date the Termination Notice is received by CONTRACTOR, unless the Termination Notice directs otherwise.

B. **By CONTRACTOR.** Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option, terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written Notice to COUNTY of such late payment.

Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement as it applies to any Services, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory Services performed as of the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the Maximum Contract Amount, or for profit on unperformed portions of Services. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the Services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the Services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

**20. SECTION HEADINGS**

The headings of the several sections herein, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

**21. SEVERABILITY**

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable by a Court of competent jurisdiction, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**22. REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

**23. TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement, and each covenant and term is a condition herein. Notwithstanding the foregoing, time will not be of the essence, and CONTRACTOR will not be in breach, to the extent any delay is excused under Section 24 of this Agreement, below.

**24. FORCE MAJEURE.**

A Party will not be liable for a failure or delay in performing its obligations under this Agreement to the extent that such failure or delay is directly and solely caused by a Force Majeure Event and in no way caused or contributed to by any act or omission by or on behalf of such Party, provided that (a) such Party promptly, and in any event with 48 hours after the occurrence of such Force Majeure Event, provides written notice to the other party hereto containing all of the following (“Force Majeure Notice”): (i) a description of the Force Majeure Event, (ii) a description of the failure or delay in performance of such Party’s obligations hereunder, (iii) explanation of how such failure or delay is directly and solely caused by a Force Majeure Event, (iv) attesting that such failure or delay is in no way caused or contributed to by any act or omission by or on behalf of such Party, (v) the steps such Party has taken and will take to ameliorate the effects of such Force Majeure Event on such Party’s performance hereunder, and (vi) affirmation that such Party will resume such Party’s performance hereunder as soon as possible; and (b) such Party resumes performance hereunder as soon as possible and notifies the other party hereto in writing of the cessation of such Force Majeure Event and the resumption of such Party’s performance hereunder. “Force Majeure Event” means an event or circumstance beyond the affected Party’s reasonable control, including acts of God, flood, fire, earthquake, epidemic or pandemic (other than the COVID-19 pandemic), and failures of Internet Service Providers to the extent corroborated by documentation provided by such Internet Service Provider.

**25. NO WAIVER OF DEFAULT**

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

**26. ENTIRE AGREEMENT AND AMENDMENT**

This Agreement, including all Exhibits attached hereto, together with Service Orders and Change Orders duly executed in accordance with this Agreement, contains the entire understanding and agreement of the Parties with respect to the subject matter hereof, and there have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, duly executed by each of the Parties and by no other means. Each Party waives its future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

**27. SUCCESSORS AND ASSIGNS**

This Agreement is binding on the Parties and their respective successors and assigns, and shall inure to the benefit of the Parties’ respective successors and assigns to the extent in accordance with Section 18, above.

**28. COMPLIANCE WITH LAW**

CONTRACTOR shall, at its sole cost and expense, comply with all applicable County, State and Federal ordinances and statutes now in force or which may hereafter be in force. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

**29. CALIFORNIA LAW AND JURISDICTION**

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

**30. EXECUTION OF COUNTERPARTS**

This Agreement may be executed electronically and in any number of counterparts, and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

**31. AUTHORITY**

Each of the signatories and Parties to this Agreement warrants and represents that such signatory and Party has the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of the entities and persons represented or purported to be represented by such entity(ies) or person(s), and that all corporate requirements necessary or required by any state and/or federal law(s) in order to enter into this Agreement in a legally binding manner have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

**32. SURVIVAL**

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

**33. ORDER OF PRECEDENCE**

In the event of conflict or inconsistency between the provisions contained in the foregoing numbered Sections 1 through 32 of this Agreement and this Section 33 (collectively, the "Numbered Sections"), and the provisions contained in the Exhibits attached hereto, the provisions contained in the Numbered Sections shall control and prevail over those in the Exhibits, other than Exhibits B and C, which shall control and prevail over all other provisions of this Agreement. In the event of any conflict or inconsistency between the Numbered Sections and the Exhibits attached hereto, on the one hand, and the provisions of any Service Order or Change Order, on the other, the provisions in the Numbered Sections and the Exhibits shall control and prevail. No terms, provisions, documents or "agreements" may be included in this Agreement or any Service Order or Change Order hereunder via hyperlink or URL reference.

## Agreement for Services of Independent Contractor by and between the County of Santa Barbara and Technolgent, Inc.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement to be effective on the date executed by COUNTY ("Effective Date").

**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board

**COUNTY OF SANTA BARBARA:**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Bob Nelson, Chair  
Board of Supervisors

Date: \_\_\_\_\_

**RECOMMENDED FOR APPROVAL:**

Chris Chirgwin  
Information Technology Department

**CONTRACTOR:**

Technolgent, Inc.

DocuSigned by:  
*Chris Chirgwin*  
By: \_\_\_\_\_  
D97209A7A68A4A0...  
Department Head

Signed by:  
*Isabel Rivera*  
By: \_\_\_\_\_  
86E7D7718D14468...  
Authorized Representative

Name: Isabel Rivera  
Title: General Counsel

**APPROVED AS TO FORM:**

Rachel Van Mullem  
County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

Betsy M. Schaffer, CPA  
Auditor-Controller

Signed by:  
*Lauren Wideman*  
By: \_\_\_\_\_  
8F464D822C84458...  
Deputy County Counsel

Signed by:  
*James Munro*  
By: \_\_\_\_\_  
02BA147EF6A84DE...  
Deputy

**APPROVED AS TO FORM:**

Risk Management

Signed by:  
*Marisa Kalin*  
By: \_\_\_\_\_  
DE54FE5C66E0C41A...  
Risk Management

2. **EXHIBIT A**

3. **STATEMENT OF WORK**

Technologent, Inc., shall be responsible for providing all services hereunder. CONTRACTOR may not substitute other persons without the prior written approval of COUNTY's designated representative.

**Suspension for Convenience.** COUNTY 's Designated Representative may, without cause, order CONTRACTOR in writing to suspend, delay, or interrupt the services under this Agreement in whole or in part for up to 30 days. COUNTY shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.

(Remainder of page intentionally left blank. Exhibit continues on next page.)



## **STATEMENT OF WORK**

*Between*

### **County of Santa Barbara**

105 E. Anapamu St. | Rm. 304 | Santa Barbara | CA | 93101

*And*

### **Thomas Gallaway Company, LLC dba Technologent**

100 Spectrum Center Drive | Suite 700 | Irvine | CA | 92618

*For*

### **Infrastructure Support Extension**

Contract Number: OP123658

Revision 1.1

Prepared by: Ana Seng

Email: [Analee.seng@technologent.com](mailto:Analee.seng@technologent.com)

## 4. PROJECT IMPLEMENTATION

### 1. SCOPE

The purpose of this Statement of Work is to provide and enhance the Infrastructure Support Services for the County of Santa Barbara through a flexible, on-demand engineering model. Contractor shall provide Customer with flexible, on-demand access to specialized, platform-specific engineering expertise and surge capacity in support of critical enterprise infrastructure systems and Public Records Act (PRA) compliance obligations. The purpose of the Services is to ensure operational stability while avoiding long-term reliance on external resources by maintaining all contracted engagements as episodic and demand-driven.

- The Services shall be performed on a time-and-materials basis, as set forth in greater detail in Section 9, below, with a not-to-exceed limit of 273 hours at the hourly rate set forth under Section 9 below for each of the Initial Term and each Option Period (“Annual Hours Limit”). No Services may be performed hereunder beyond the Annual Hours Limit without a Change Order duly executed in accordance with the Numbered Sections of the Agreement, above. The Hourly Rates set forth in Section 9 below and shall apply to all Services performed hereunder, including, but not limited to, Services performed beyond the Annual Hours Limit.
- The Services will be performed remotely.

The Services include extension of specialized Infrastructure Support Services provided by Contractor across multiple technical domains including enterprise virtualization, storage, server infrastructure, and Microsoft 365 compliance in support of Customer PRA obligations, as follows:

1. PRA Compliance Support (On Demand, via Service Orders)
  - Deployment of specialized Microsoft 365 engineers named in Attachment 1 to this Exhibit A on an as needed basis, pursuant to Services Order(s) duly executed by both of the Parties in advance of performance, for Microsoft Purview administration, eDiscovery case management, content search execution, data preservation holds, and defensible data export during periods of elevated legal demand or regulatory deadlines.
2. Enterprise Infrastructure Engineering (On Demand, via Service Orders)
  - Engagement of platform-specific engineers named in Attachment 1 to this Exhibit A for advanced configuration, troubleshooting, remediation, and lifecycle activities across the VMware virtual environment, Isilon storage systems (recently upgraded), and Windows Server (2016+) environments, addressing complex vendor-specific engineering tasks and targeted issue resolution, pursuant to Services Order(s) duly executed by both of the Parties in advance of performance.
3. Surge Capacity / Staff Augmentation (As Required)
  - Short-term deployment of specialized technical resources, pursuant to Services Order(s) duly executed by both of the Parties in advance of performance, for temporary workload spikes or project-based efforts, operating under County ITD Department direction with Customer staff retaining full system ownership and operational control.
4. Optional Year Review and Activation
  - Annual joint review and evaluation of engagement performance to inform the County’s decision regarding whether to exercise the County’s Option with respect to the then-upcoming Option Period.
  - Process the administrative and contractual steps required to activate each optional year upon mutual agreement following the annual performance review

- Rates for Year 1 are as set forth in the attached Schedule. Rates for each subsequent one-year option term shall be subject to an annual adjustment not exceed three percent (3%), as determined by the U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U), capped at a maximum increase of three percent (3%) per year.

## 2. Services

### 2.1. Services to be Performed in Accordance with Service Order(s)

- Provide specialized PRA compliance support within the Microsoft 365 environment, encompassing Microsoft Purview, eDiscovery, content search, data preservation, and defensible data export processes to address complex and high-volume PRA requests
- Deliver advanced configuration, troubleshooting, remediation, and lifecycle engineering activities for enterprise server and virtualization platforms, enterprise storage systems, and Windows Server environments (2016+)
- Provide flexible, short-duration surge capacity and staff augmentation to address temporary workload spikes, project-based efforts, and specialized tasks requiring platform-specific expertise
- Ensure all Services are performed under Customer direction and in full alignment with established security standards, operational and change control procedures, and mandatory yearly security training requirements
- All engineers named in Attachment 1 to this Exhibit A have completed the County's onboarding processes including CJIS background checks and are responsible for completing annual Cybersecurity, HIPAA, CJIS and other compliance training as provided by the County. Any staffing replacements must onboard in the same manner and adhere to annual training prior to performing any work for the County. Maintain operational stability and avoid long-term reliance on external resources by keeping all contracted engagements episodic and demand-driven
- Ensure no changes are introduced to the existing scope, pricing structure, or other Agreement provisions.
- PRA Compliance Support Services - Remote, on-demand Microsoft Purview administration, eDiscovery case management, content search execution, data preservation holds, and defensible data exports in alignment with PRA demand, legal deadlines, or technical complexity
- Enterprise Infrastructure Engineering Services - Remote, on-demand advanced configuration, troubleshooting, remediation, and lifecycle activities for virtual environment, storage, and Windows Server environments engaged on time-limited basis for non-routine technical requirements and unplanned system events
- Surge Capacity / Staff Augmentation - Short-term specialized technical resource deployment (remote) to address temporary workload spikes or project-based efforts, limited in duration and scope, operated under Customer IT direction
- Annual Performance Review Reports - Written summary reports covering service utilization review, SLA adherence assessment, outstanding issues, and optional year activation recommendations, delivered once per Initial Term and each Option Period on or before the date that is 45 days prior to the end of the then-current Initial Term or Option Period.
- Continuous system administration or day-to-day operational support (all Services, are episodic and only to be performed pursuant to written Service Orders duly executed by the Parties in advance).
- Independent management of Customer systems (Customer IT staff retain full responsibility for system ownership, prioritization, approvals, security oversight, and day-to-day operations; provided, however, that nothing here shall be deemed to relieve Contractor of responsibility for security

breaches or systems disruptions caused by any act(s) or omission(s) by or on behalf of Contractor)

- Services outside the technical domains specified in this SOW (virtual environment, storage, Windows Server, Microsoft 365 PRA compliance)

### 3. Services

- Microsoft Purview Configuration and Administration
  - Configure and administer Microsoft Purview policies, retention labels, information barriers, and compliance settings as required to support PRA obligations
- eDiscovery Case Management
  - Manage eDiscovery cases within Microsoft Purview including case creation, custodian management, hold policies, and search coordination in response to PRA requests
- Content Search Execution
  - Execute targeted content searches across the Microsoft 365 environment in response to specific PRA requests, ensuring accuracy and defensibility of results
- Data Preservation Actions
  - Apply legal hold and data preservation controls to relevant mailboxes, SharePoint sites, and repositories to ensure data integrity throughout PRA proceedings
- Defensible Data Export
  - Perform defensible data exports from Microsoft 365 for PRA production, ensuring chain of custody, data integrity, and compliance with applicable legal standards
  
- VMware Advanced Support
  - Perform advanced configuration, troubleshooting, remediation, platform optimization, major version upgrades, and lifecycle activities for VMware virtual environments, excluding continuous system administration
- Dell/Isilon Storage Engineering
  - Perform troubleshooting, optimization, remediation, and lifecycle activities for Dell Isilon storage systems (recently upgraded), including complex vendor-specific engineering and targeted issue resolution
- Windows Server Engineering
  - Perform advanced configuration, remediation, major version upgrades, and lifecycle activities for Windows Server 2016+ environments, excluding continuous system administration and day-to-day operations
  
- Short-term Specialist Deployment
  - Deploy specialized technical resources for temporary workload spikes, project-based efforts, or tasks requiring platform-specific expertise, with all resources operating under Customer IT direction and Customer IT retaining system ownership and operational control
- Post-Engagement Documentation and Review
  - Conduct post-engagement review sessions to document outcomes, actions taken, lessons learned, and recommendations for future engagements
  
- Annual Performance and Scope Review
  - Conduct joint annual review of service utilization, adherence to established standards, scope alignment, and outstanding issues with production of written summary review

report for distribution to both Parties.

- **Communication Plan**
  - Regular project updates will be provided to ITD Service Operations Manager
- **Progress Reporting**
  - Progress reporting will follow the episodic, demand-driven nature of this engagement. For each Service Order (for, e.g., PRA compliance support, infrastructure engineering, surge capacity deployment), Technogent will provide engagement initiation confirmation, regular status updates during active work periods, and engagement completion summaries documenting work performed, outcomes achieved, and any outstanding items or recommendations. Mid-year service reviews during each year of the Term (Month 6) will include comprehensive written summary reports covering cumulative service utilization, performance against established standards, SLA adherence, outstanding issues, and any recommended scope adjustments, delivered to Customer stakeholders.
  - Annual performance reviews (at least 45 days prior to the end of each of the Initial Term and each Option Period) will provide full-year service utilization analysis, detailed performance assessments, lessons learned documentation, and Option Period activation recommendations with supporting data and rationale. ARIA Right-Sizing Reports will be delivered on an as-required basis per Customer direction with formal stakeholder review meetings and documented follow-up action plans.

#### **4. ACCEPTANCE CRITERIA**

- **Deliverable Acceptance Process**

Each deliverable will be reviewed subject to specifications provided to CONTRACTOR. formal acceptance procedures aligned with Customer procurement standards and established quality criteria. If applicable, Each deliverable shall be accepted within 10 days upon delivery.

For Service Orders (e.g., for PRA compliance, infrastructure engineering, surge capacity), acceptance will be documented through County ITD Department written approval of engagement completion summaries, verification that work was performed in accordance with Customer direction and established security/operational procedures, and confirmation that all technical outcomes meet specified requirements within 10 days upon receipt of deliverables.

Annual Performance Review Reports will be accepted through joint stakeholder review sessions with mutual acknowledgment of findings. Any deliverable discrepancies, quality concerns, or requirement gaps must be communicated to Contractor in writing by County and will be timely remediated by Contractor.

- **Quality Standards**

All Services must be performed by qualified, experienced members of the Technogent Project Team set forth in Exhibit A holding appropriate technical certifications and demonstrated expertise in their respective domains (VMware virtualization, Dell/Isilon storage, Windows Server, Microsoft 365 Purview/eDiscovery).

Mandatory completion of Customer yearly security training with documented certification is required for all contracted personnel prior to system access or billable work commencement. All

technical work must be performed in strict accordance with Customer IT security controls, operational procedures, change management protocols, and established governance frameworks, with Customer IT maintaining full approval authority over all system changes and configuration modifications.

For PRA compliance work, all processes must maintain legal defensibility, ensure chain of custody for data handling, comply with applicable legal and regulatory standards, and preserve data integrity throughout eDiscovery and export processes. Infrastructure engineering work must follow vendor best practices, maintain production system stability, minimize service disruption risk, and include comprehensive documentation of all configuration changes and technical decisions.

All deliverables must be complete, accurate, professionally formatted, and delivered within agreed timeframes. Services must be delivered in accordance with Service Orders duly executed in advance of performance of such Services, with no assumption of continuous engagement or independent system management authority.

Technologent shall be responsible for providing all Services hereunder. The Services may not be performed by anyone other than the persons comprising the Technologent Project Team specified in the table without the prior written approval of COUNTY's Designated Representative in each instance.

Contractor represents and warrants that all persons comprising the Technologent Project Team will complete mandatory security training by prior to performing Services hereunder, and yearly thereafter.

## 5. ASSUMPTIONS

Should any of these assumptions change, the activities listed above as well as the level of effort and fees required to complete the work identified in this Statement of Work may require alteration and the issuance of a Project Change Request.

- Any activities and/or deliverables not specifically identified above will be considered out of scope for this Agreement (See Change Procedure section of this SOW under 'Additional Provisions').
- Technologent shall not be responsible for material delays caused by Customer due to breach of this Agreement by Customer or material changes to the Services described in this SOW that are made by Customer (see Delays section of this SOW under 'Additional Provisions').
- Technologent is not responsible for any existing County equipment defects. It is the Customer's responsibility to have County data backed up and available on premises, if needed; provided, however, that nothing in this Agreement shall be construed to relieve Technologent of responsibility for any damage, data corruption or loss arising out of any act or omission by or on behalf of Technologent.
- Services will be performed independently by Technologent Project Team members unless Customer involvement is required for specific support. Customer will provide access to the systems supported by Technologent utilizing principle of least privilege in compliance with County policies and procedures and to the extent necessary for Technologent Project Team members to perform the Services.
- The current Infrastructure Support Services agreement between Customer and Technologent will expire at a defined date allowing seamless transition to the extended agreement without service interruption. Reason: Contract extension timing and activation logistics require clear understanding of current agreement end date to properly sequence onboarding, access provisioning, and service activation activities.

- Customer maintains an enterprise VMware/VxRail virtualization environment at version 7.0.3 or higher within vendor-supported lifecycles. Reason: Compatibility with current vendor support windows is critical for delivery of advanced configuration, troubleshooting, and lifecycle engineering services without introducing unsupported platform versions.
- Dell and Isilon storage systems have been recently upgraded to current, vendor-supported firmware and software levels. Reason: Recent upgrade status referenced in questionnaire answers; current support status is essential for vendor-specific engineering tasks and optimization activities.
- Customer maintains a Microsoft 365 environment with appropriate licensing for Microsoft Purview, eDiscovery, and advanced compliance features required for PRA support activities. Reason: PRA compliance support services require access to Microsoft Purview, eDiscovery, content search, legal hold, and data export capabilities which depend on proper M365 licensing entitlements.
- Windows Server environments are predominantly Windows Server 2016 or higher versions within Microsoft mainstream or extended support lifecycles. Reason: Support for in-lifecycle Windows Server versions ensures availability of security updates, vendor support, and compatibility with modern enterprise infrastructure and applications.
- Customer IT will maintain primary responsibility for system ownership, prioritization of work requests, change approvals, security oversight, and day-to-day operational activities throughout the engagement. Reason: Governance model explicitly reserves system ownership and operational control with Customer IT staff; contracted personnel provide specialized expertise under Customer direction rather than independent system management.
- Variable PRA workload driven by legal requests and unplanned infrastructure events will continue to create episodic demand for specialized expertise beyond Customer internal capacity. Reason: The engagement business case and requested hour pool increases are predicated on ongoing variable demand that cannot be efficiently addressed through permanent Customer staffing.
- All assigned Technogent Project Team members identified in Attachment 1 to this Exhibit A have already completed onboarding and required training as part of the existing contract and are already at work for the County. In the event of replacement of a Technogent team member, onboarding can take several weeks to several months, depending on the turn-around of the CJIS fingerprinting background check, and Technogent will plan accordingly. Reason: Access provisioning and security training completion are prerequisites for billable work commencement
- Generally, work will be performed during normal business hours defined as Monday through Friday, 8:00AM – 5:00PM (based on the Customer's primary office time zone) and excluding "Technogent" company holidays, a list of which is attached hereto as Attachment 2. Any work requested outside of normal business hours must be arranged and mutually agreed upon in advance in writing.

## 6. CUSTOMER RESPONSIBILITIES

- Respond to all requests for information and/or documentation and/or furnish requested data relevant to the Project within two (2) business days.
- Provide access to necessary Customer resources, including designated decision makers, to participate in the Project.
- Assist with project management activities associated with this project as specified herein.
- Make knowledgeable personnel available and provide relevant system documentation, as reasonably requested, to support systems under this contract. Provide administrator or superuser logons to host systems, or (alternatively) assign system administrator(s) to perform logon activities on behalf

of Technologent Project Team personnel.

- Customer shall maintain all applicable licenses and ensure such licenses remain valid and compatible with current and planned systems. Verify that all County servers and/or workstations to be accessed by Technologent personnel hereunder are fully functional before Technologent personnel begin professional services activities. "Fully functional" includes operating system(s), database(s), application(s) and network(s) provided or supplied by Customer in connection with the Services.

## **7. PROJECT MANAGER AND CONTACTS**

The Project Manager for each of Customer and Technologent who will be responsible for managing all activities for such Party hereunder are specified in Attachment 1 to this Exhibit A, below.

## **8. ADDITIONAL PROVISIONS**

### **Change Procedure**

Any changes and/or modification to this SOW must be done in writing and approved by both Technologent and Customer. Some changes may result in a change to the service fees associated with this SOW. Should the changes result in additional time or material, Technologent will provide to Customer in writing an estimated cost for approval before such costs are incurred.

### **Resource Scheduling**

Technologent will require a minimum of two (2) weeks of lead-time for scheduling any Services to be performed under a Service Order .

### **Delays**

If any delay of two (2) weeks or more in the performance of Services under a Service Order is solely and directly caused by Customer, other than in connection with a Force Majeure Event, Customer understands that Technologent Project Team members assigned to perform such Services hereunder may no longer be available to complete the Services.

In the event of a delay by Technologent, Technologent will promptly notify Customer and endeavor to replace such personnel with person(s) with equal qualifications and skills and training to continue work or to complete the Services under the applicable Service Order.

### **Existing Equipment**

Technologent is not responsible for any existing County equipment defects. It is the Customer's responsibility to have County data backed up and available on County premises, if needed; provided, however that nothing herein shall be construed to relieve Technologent of its responsibility for lack of interoperability and data loss arising out of the negligence or other acts or omissions by or on behalf of Technologent.

### **Timesheets**

Technologent Timesheets reflecting Service hours to be charged to County hereunder are subject to County approval prior to invoicing and as a condition of payment hereunder.

### **No Solicitation to Hire**

During the Term of this SOW and for a period of one (1) year following termination or expiration of this SOW, the Customer agrees not to solicit to hire, hire or cause to hire any Technologent personnel, employees or

subcontractors directly or indirectly without express written permission from Technogent. Notwithstanding the foregoing, nothing in this Section shall prohibit either party (including the County) from posting or publishing job advertisements to the general public or from hiring any employee or contractor of the other party who responds to such a public advertisement or otherwise applies on their own initiative. In addition to any other remedies available at law or in equity, Technogent shall be entitled to seek injunctive relief to prevent or limit any breach of this Section.

**Limited Warranty**

Technogent warrants to the Customer that the Services provided hereunder will be performed in a professional and workmanlike manner and will substantially conform to the applicable specifications at the time of performance. Unless otherwise expressly agreed in writing by Technogent, Technogent warrants the Services for a period of thirty (30) days from the date of performance of the Services to the Customer or its designated recipient of the Services. Technogent does not warrant results or achievements of the Services and Technogent is not responsible for the work or activity of any personnel not employed by Technogent (excluding Technogent-authorized subcontractors). EXCEPT AS SET FORTH IN THIS SECTION, TECHNOGENT MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, INCLUDING WARRANTIES OF (A) MERCHANTABILITY, (B) FITNESS FOR A PARTICULAR PURPOSE OR USE, (C) NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, AND (D) ARISING FROM A COURSE OF DEALING, CUSTOM OR USAGE OF TRADE OR COURSE OF PERFORMANCE, NOTWITHSTANDING.

**Limitation of Liability**

Neither Party will be liable to the other for any indirect, incidental, special, or consequential damages arising out of or related to this Agreement.

Except for a Party’s gross negligence, willful misconduct, or indemnification obligations, each Party’s total liability arising out of or related to this Agreement will not exceed the total amount paid or payable by County to Contractor under this Agreement during the twelve (12) months preceding the event giving rise to the claim.

**9. PRICING**

Technogent will provide the Services between the hours of 8:00 AM to 5:00 PM Pacific Time, on a Time-and-Material basis at the Hourly Rates set forth in the Services Fee Schedule table below, and with materials provided at actual cost to Contractor, as substantiated by receipts reflecting such expenses with sufficient specificity to be verified by the County, which substantiating receipts must be submitted together with the next invoice submitted by Contractor to County in accordance with Exhibit B, below.

**Services Annual Costs (not to exceed)**

**Time and Materials Fee Schedule**

Role	FY2026-27 Hourly Rate
Systems Engineer	\$175.00
Project Manager	\$175.00

**9.1. Pricing Terms**

- Prices quoted are for normal Business Hours: 8:00 AM to 5:00 PM (17:00) Pacific Time at the Stated Rate.

## 9.2. Invoicing

Technogent may Invoice the County in accordance with Exhibit B to this Agreement. Attachment 1 to Exhibit A

County of Santa Barbara Contact Information		
<b>Customer Headquarters (Billing Address)</b>	105 E. Anapamu St.   Rm. 304   Santa Barbara   CA   93101	
<b>In-Scope Customer Location(s) (Ship To Address)</b>	105 E. Anapamu St.   Rm. 304   Santa Barbara   CA   93101	
Customer Project Team		
Customer Role	Name	Email
Primary Project Contact	Virginia Butterfield	vmbfield@countyofsb.org

Technogent Contact		
<b>Technogent Headquarters</b>	100 Spectrum Center Drive   Suite 700   Irvine   CA   92618	
Technogent Project Team		
Technogent Team Role	Name	Email
<b>Project Manager</b>	<b>Elliott Morrison</b>	<b>Elliott Morrison</b> <elliott.morrison@technogent.com>
<b>Systems Engineer</b>	<b>Jonathon Edwards</b>	<b>Jonathan Edwards</b> <jonathan.edwards@technogent.com>
<b>Systems Engineer</b>	<b>Richard Demoret</b>	<a href="mailto:Richard.demoret@technogent.com">Richard.demoret@technogent.com</a>
<b>Systems Engineer</b>	<b>David Frey</b>	<b>David Frey</b> <david.frey@technogent.com>

## EXHIBIT B

### PAYMENT ARRANGEMENTS

#### Periodic Compensation

- A. For Services to be rendered under this Agreement, CONTRACTOR shall be paid a maximum aggregate contract amount, including cost reimbursements, not to exceed **\$260,000** ("Maximum Contract Amount").
- B. Payment for services and reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY.
- C. Monthly, CONTRACTOR shall submit to the COUNTY ITD Finance at [itdfinance@countyofsb.org](mailto:itdfinance@countyofsb.org) and copy the DESIGNATED REPRESENTATIVE specified in Section 1 of this Agreement, above, at [vmfield@countyofsb.org](mailto:vmfield@countyofsb.org), an invoice for the Services performed and pre-approved expenses incurred over the immediately preceding month. Each invoice must cite the assigned Board Contract Number for this Agreement. COUNTY REPRESENTATIVE shall evaluate the quality of the Services performed and if found to be satisfactory shall initiate payment processing. COUNTY shall pay invoices for satisfactory work within 30 days of receipt of correct and complete invoices and substantiating documentation from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy. If County objects to the quality of any performed Services, Contractor shall have 30 days from written notice from County regarding same to cure any defects. For any transaction involving the sale of goods and products, CONTRACTOR will pass through any warranties applicable to such product to the COUNTY.

## EXHIBIT C

### Indemnification and Insurance Requirements (For Information Technology Contracts)

#### INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any third party claims, actions, losses, damages, judgments and/or liabilities including reasonable attorneys' fees and costs to the extent arising out of or resulting from: (i) the gross negligence, omission to act or willful misconduct of CONTRACTOR, (ii) Contractor's material breach of this Agreement or (iii) Contractor's violation of applicable law.

#### NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

#### INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

##### A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. **(Not required if CONTRACTOR provides written verification that it has no employees)**
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
5. **Cyber Liability Insurance:** Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the CONTRACTOR in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations,

information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for 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 COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR'S insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR'S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to

require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
  - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
  - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
  - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.