

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and NEC Corporation of America (NEC), with an address at 3929 West John Carpenter Freeway, Irving, Texas 75063 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY 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

Laura Mejia at phone number (805)346-7609 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Roberto Zampiglia at phone number (562)506-2311 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: Laura Mejia, 2125 South Centerpointe Parkway, Santa Maria, CA 93454

To CONTRACTOR: NEC Corporation of America, 3929 West John Carpenter Freeway, Irving, Texas 75063.

Attn: Legal Division – Contract Administration Department

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. 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 agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. TERM

CONTRACTOR shall commence performance on 02/02/2016 and end performance upon completion, but no later than 12/31/16 unless otherwise directed by COUNTY or unless earlier terminated.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance 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 and which is delivered to the address given in Section 2 NOTICES above following completion of

the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation 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 its 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 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.

7. STANDARD OF PERFORMANCE

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. 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 standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that it and its employees and principals are not 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. 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. The foregoing provision does not apply to sale taxes and/or similar taxes applied to the sale of products or services provided under this agreement.

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 the 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, except for NEC's Pre-Existing IP. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

"Pre-Existing IP" means all intellectual property owned by NEC which either (i) pre-dates the Effective Date, or (ii) arises solely as a result of independent development by NEC and not as a result of the performance of this Agreement or of NEC's exposure to any confidential information or other intellectual property of any of its affiliates or their third party beneficiaries.

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.

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.

13. COUNTY PROPERTY AND INFORMATION

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information 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.

In accordance with Federal Government Accounting Standards, Contractor will only seek reimbursement from County for expenses that are allowable under the provisions of the specific Federal cost principles appropriate for their entity, for example: OMB A-21 (Educational Institutions), OMB A-87 (State, Local or Indian Tribe Governments), OMB A-122 (Non-Profit Organizations), 45 CFR part 74 Appendix E (Hospitals), and Federal Acquisition Regulation (FAR) at 48 CFR part 31 (Commercial organizations and non-profit organizations listed in Attachment C to Circular A-122).

Additionally, Contractor is required to comply with all requirements and responsibilities in Circular A-133 *Audits of State, Local Governments, and Non-Profit Organizations* from the Office of Management & Budget (OMB A-133), as applicable to their specific entity and expenditures of federal funds. Such requirements and responsibilities that may apply to the Contractor include Single Audits, program specific audits, and/or pass-through entity responsibilities including identifying and monitoring subrecipients and vendors, as defined within OMB A-133. Contractor will substantiate to County annual compliance with those portions of OMB A-133 which apply to the Contractor.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to 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, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

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 the obligations herein.

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.

Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for services performed to the date of termination not to exceed the prorated amount of compensation due hereunder in accord with the milestone and payments set forth in Section C of Exhibit B, less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement. CONTRACTOR shall furnish to COUNTY documentation in accord with exhibit B reflecting the actual costs of wind-down activities set forth in Exhibit A that could not be avoided or mitigated due to the early termination for convenience and will pay those costs in addition to the services performed and unpaid to date of termination.

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 funds are not otherwise available for payments 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.

In the event that funds have been appropriated or budgeted, Contractor understands that monies paid to Contractor by County are derived from federal, state or local sources, including local taxes, and are subject to curtailment, reduction, or cancellation by government agencies or sources beyond the control of County. County shall have the right to terminate this agreement in the event that such curtailment, reduction, or cancellation occurs.

3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice,

CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the 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.
- C. 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, 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 to the date of termination to include a prorated amount of compensation due hereunder in accord with the milestone and payments set forth in Section C of Exhibit B, less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. 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, 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 in any respect, 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.

24. **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.

25. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties 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, executed by the parties to this Agreement and by no other means. Each party waives their 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.

26. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

27. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. 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.

28. 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.

29. EXECUTION OF COUNTERPARTS

This Agreement may be executed 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.

30. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement 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.

31. 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.

32. **PRECEDENCE**

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

33. **MANDATORY DISCLOSURE**

CONTRACTOR must disclose, in a timely manner, in writing to the COUNTY all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C. 3321.)

34. **STATE ENERGY CONSERVATION PLAN**

CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

35. **PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING**

A. CONTRACTOR, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONTRACTOR to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONTRACTOR shall complete and submit California State Standard Form-LLL, "Disclosure Form to Report Lobbying," to the COUNTY and in accordance with the instructions found therein.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. CONTRACTOR also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

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Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **NEC Corporation of America**.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
Chair, Board of Supervisors

Date: _____

RECOMMENDED FOR APPROVAL:

Department of Social Services

By: _____
Daniel Nielson, Director

APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Robert W. Geis, CPA
Auditor-Controller

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

Risk Management

By: _____
Risk Management

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Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **NEC Corporation of America**.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

CONTRACTOR:

NEC Corporation of America

By:

Authorized Representative

Name:

Title:

EXHIBIT A

STATEMENT OF WORK

THIS STATEMENT OF WORK (hereafter SOW) is made by and between the COUNTY and CONTRACTOR to provide the services specified herein.

Interactive Voice Response (IVR) System for the County of Santa Barbara Department of Social Services is based on County's Request for Proposal No.16-01, dated 24 August 2015 incorporated here by reference, and NEC's response; consisting of the following:

Step I: System Design & Data Collection.

Step II: System Procurement and Implementation.

It is understood by both the COUNTY and CONTRACTOR that the work outlined in Step I: System Design & Data Collection is a requirement in preparation for Step II: the Procurement and Implementation of a complex Interactive Voice Response System. CONTRACTOR will perform all necessary tasks, which will result in a properly configured and installed IVR System.

Step 1: System Design and Data Collection:

This phase of the SOW shall be considered to be successfully completed upon NEC's delivery to COUNTY of the System Design and Data Collection tasks in printed format and on softcopy media. This shall include data, drawings, reports, and other materials that have been collected, created, or developed pursuant to the Statement of Work. This information should reference the associated tasks.

Following are the major tasks to be completed by NEC in six (6) weeks after execution of the Board approved Agreement:

1. Assign a Project Manager
 - 1.1. CONTRACTOR shall assign and provide a resume of the Project Manager.
 - 1.2. CONTRACTOR shall arrange for a phone interview with the COUNTY and the CONTRACTOR Project Manager. The COUNTY must approve the Project Manager prior to the start of work.
2. Confirm Installation Sequence

Review, confirm and document each site implementation sequence.

 - 2.1. Site #1 is BSC (1318 S Broadway, Santa Maria) with 96 IVR ports.
 - 2.2. Site # 2 is Betteravia (2125 S. Centerpointe Parkway, Santa Maria) with 24 IVR ports.
 - 2.3. Site # 3 is Lompoc (1100 W Laurel Street, Lompoc) with 24 IVR ports.
3. Review and Document Existing Automated Call Distributor (ACD) Related Applications
 - 3.1. Identify and document any special applications during call flow reviews that integrate with NEC SV8500, CalWIN, and UM8700 as they exist at the time of identification; and ensure that these are retained in the IVR system.
 - 3.2. Document all existing call menus from the UM8700 voicemail system and VS32.

- 3.3. Identify any reporting package conflicts between the current and new System and ensure they are addressed and accommodated.
4. Conduct Data Collection Meetings & Finalize IVR Design per Technology For Business (TFB) design and installation including:
 - 4.1. Prepare call menu auto attendant applications.
 - 4.2. Document messages and announcements, and determine required update as mutually agreed upon by Contractor and COUNTY .
 - 4.3. Work in collaboration with the COUNTY to identify and document any changes to call menus.
 - 4.4. Prepare a plan to move the existing call menus to the new System.
 - 4.5. Work in collaboration with the COUNTY to identify, document, and modify existing ACD call flows, if mutually agreed upon by Contractor and COUNTY.
 - 4.6. Work in collaboration with the COUNTY to define menus, call flows and document final design, including:
 - 4.6.1. Immediate automated client call backs.
 - 4.6.2. Scheduled call backs.
 - 4.6.3. Announcements to callers in queue.
 - 4.6.4. Announcements to callers regarding queue depth.
 - 4.7. Review and explain new IVR Reporting package vs. existing Global Navigator.
 - 4.8. Prepare and plan ACD groups with agents located throughout the County.
5. Review IVR System Administration Package
 - 5.1. Design and document installation of the System Administration tool.
 - 5.2. Confirm number of users and licenses.
 - 5.3. Provide necessary equipment specifications that the COUNTY will be required to supply.
6. Review server specifications
 - 6.1. Review types of servers proposed.
 - 6.2. Review and document if the servers proposed need any upgrades.
 - 6.3. Review and document location of the final resting place for servers.
 - 6.4. Review and document development server specifications and placement.
7. Identify and Document SV8500 Interface
 - 7.1. Confirm and document necessary licenses needed for the IVR system and ACD agents.
 - 7.2. Confirm and document SV8500 programming requirements, if any.

- 7.3. Review and confirm CalWIN interfaces.
8. Identify and Document UM8700 Interface
 - 8.1. Confirm and document necessary licenses needed for the IVR system and ACD agents.
 - 8.2. Confirm and document UM8700 programming requirements, if any.
9. Identify and Document Wide Area Network
 - 9.1. Identify and document any augmentations to the wide area network for site-to-site connectivity.
 - 9.2. Identify and document requirements for routers.
10. Develop Cutover Process and Project Plan
 - 10.1. Create a detailed Project Plan of the tasks to be performed by each party in connection with the implementation of the System, the deliverables for each task and the commencement and completion dates for each task.
 - 10.2. NEC will work with the County to identify and document PRI(s) T1s and DID(s) that may be affected with the IVR implementation. Any additional facilities that might be required due to traffic and/or additional equipment required is responsibility of the County, including any additional cost caused by the need to acquire new facilities/equipment.
 - 10.3. Identify and document connectivity requirements (fiber, point-to-point T1s, Microwave etc.) between BSC, Betteravia, Lompoc and other related sites.
 - 10.4. NEC will survey the primary Voice Over IP (IVR) equipment room for the IVR installation requirements. Following that survey, NEC will create and deliver a diagram/drawing to determine the most suitable location for the placement of the IVR equipment. The COUNTY will be responsible to provide any infrastructure required to support the installation of the IVR.
 - 10.5. Document IP phones, telephone type and model, extension number, location, and outlet number, and data port on the COUNTY supplied floor plans.
 - 10.6. Provide necessary equipment specifications that the COUNTY will be required to supply.
 - 10.7. Identify and document list of supervisor telephones.
 - 10.8. Prepare and document Acceptance test criteria.
11. Develop and document with the COUNTY a mutually agreeable System configuration change management process.
12. Develop with the COUNTY a mutually agreeable Remote Access protocol per County policies.
13. Identify and Document Physical Infrastructure Requirements
 - 13.1. Visit all equipment room(s) that will house IVR equipment. Identify and document any upgrades or clean up required to support the installation.
 - 13.2. Prepare Visio diagram for each equipment room detailing power/circuit type and location of circuits, racks, subsystems, and UPS devices.

14. Prepare Training Plan (Includes a max of 40 Hours for this delivery. Any additional training will be at the labor rates quoted by NEC in the RFP response.)
 - 14.1. Prepare and document training plan to include the following considerations.
 - 14.1.1. Training Schedule.
 - 14.1.2. Class length.
 - 14.1.3. Agents.
 - 14.1.4. ACD supervisors and system administrators
 - 14.1.5. IVR ACD Reporting Package.
 - 14.1.6. Training material.
 - 14.2. Prepare a technical and administration training plan for the Supervisors.
15. Prepare and document Step II configuration based on Tables III and IV listed at the end of Exhibit B and RFP unit pricing for:
 - 15.1. Hardware.
 - 15.2. Software.
 - 15.3. Licenses.
 - 15.4. Pricing.
16. Prepare Acceptance Testing Criteria for:
 - 16.1. NEC/TFB servers and appropriate software.
 - 16.2. PRI's and Analog Trunks.
 - 16.3. VoIP Telephones and Local Area Network (LAN) subnets, Virtual Local Area Network (VLAN)s, and Quality of Service (QoS).
 - 16.4. Wide Area Network (WAN) Circuits and WAN Hardware.
 - 16.5. Call Center ACD.
 - 16.6. IVR.
 - 16.7. Uninterruptible Power Supply (UPS) and Battery Backup, if provided by NEC.
17. Prepare and document business continuity and redundancy requirements.
18. Provide Post Installation Warranty and Maintenance Process and Documentation
 - 18.1. Document an escalation chart during implementation and post installation.
 - 18.2. Identify tools, processes and methodology to minimize service interruption.
 - 18.3. Propose a plan to keep these team members current on technology and their training requirements.

- 18.4. Develop and document the software upgrade process under the Software Assurance Plan.
- 18.5. Review support services contract (attachment 1) and work with the COUNTY to define & mutually agree on Service Level Agreement (SLA).
- 19. Confirm Step I design considerations on RFP supports Optional Requirements outlined in NEC's proposal response for Phase 2. For example, would the call recording change the servers and licensing scheme?
- 20. IVR Tasks Completion Check List. NEC to provide tasks deliverables as identified above and complete Table II – IVR Completion Checklist.

Table II - IVR Completion Checklist

Tasks and Deliverables	Task Completed Yes/No
1 Assign a Project Manager	
2 Confirm Installation Sequence	
3 Review and Document Existing ACD IVR Related Applications	
4 Conduct Data Collection Meetings & Confirm IVR Final Design	
5 Review IVR System Administration Package	
6 Review Server Specifications	
7 Identify and Document SV8500 Interface	
8 Identify and Document UM8700 Interface	
9 Identify and Document Local Area Network Requirements	
10 Identify and Document Wide Area Network Requirements	
11 Develop Cutover Process and Plan	
12 Develop and Document with the COUNTY a mutually agreeable System configuration change management process	

Table II - IVR Completion Checklist

Tasks and Deliverables	Task Completed Yes/No
13 Develop with the COUNTY a mutually agreeable Remote Access protocol per County policies	
14 Identify and Document Physical Infrastructure Requirements	
15 Prepare Training Plan	
16 Prepare and document Step II configuration based on RFP unit pricing	
17 Prepare Acceptance Testing Criteria	
18 Prepare and document business continuity and redundancy requirements.	
19 Provide Post Installation Warranty and Maintenance Process and Documentation	
20 Confirm Step I design considerations on RFP support Phase 2 elements	

End of Step I

Step II: System Procurement and Implementation

1. Equipment Purchase and Installation to be Completed by June 1, 2016
 - 1.1. CONTRACTOR shall order equipment based on COUNTY'S approval and completion of Step I deliverables.
 - 1.2. CONTRACTOR shall Install, configure, train, test, and Cutover the IVR equipment and related applications based on TFB design and installation guidelines.
 - 1.3. CONTRACTOR shall provide Acceptance testing schedule for the hardware/software listed as a result of Section 16 of Step 1.
 - 1.4. CONTRACTOR shall work cooperatively with the COUNTY's IT staff to complete programming, testing, and cutover of LAN edge equipment by equipment room.
 - 1.5. CONTRACTOR shall provide helpdesk function during the cutover.
2. Post Installation Warranty and Maintenance
 - 2.1. Prepare a support services contract for years 2-6 per the RFP pricing.

3. System

The "System" is defined as all hardware and labor components for the IVR; SV8500; Ethernet switches for connecting phones and sites; all software; all management tools; all telephones; circuits; and all cabling required to make the System work.

"Site System(s)" is defined as the specific itemized list of components for each respective site that must be installed and working in order to qualify that site for Cutover. The Site Systems consist of IVR, SV8500 Systems, UM8700 and connectivity to the State via CalWIN.

4. Cutover

Cutover is the date when the applicable Site System is available for use and is performing in accordance with the requirements of this Agreement.

Upon Cutover of each Site System, NEC will notify the County that the Site System is Cutover by presenting the County with a checklist, itemizing all of the equipment and services delivered for such Site System (the "Project Completion Checklist"). Within ten (10) business days after receipt of the Project Completion Checklist, the County will either: (a) confirm that the Cutover for such Site System is complete by signing the Project Completion Checklist and returning it to NEC or (b) provide NEC with a written notification ("Punchlist") detailing how the Cutover fails to materially conform with the then-current requirements for such Site System.

5. Acceptance

- 5.1. The County shall be present and witness to all such tests at the time of performance testing by NEC. When tests have been completed to NEC's satisfaction, NEC shall give the County written notice that the tests have been successfully completed. NEC shall provide copies of tests and any required certification that all applicable standards and specifications have been met.
- 5.2. NEC must demonstrate that the System has been installed based on Step 1 Design, and is in accordance with the manufacturers' specifications. There will be an Acceptance Clock that runs for 30 days following the Cutover of each Site System based on NEC's Acceptance Criteria established during Step 1. The system must operate without any "Major Service Outage" for 30

days. Major Service Outage is defined as the application is not performing as programmed or the server that supports the applications is down. Upon the expiration of the thirty (30) day Acceptance period, the County will provide written approval that Acceptance has been achieved.

5.3. The Acceptance test clock will stop or be reset to zero upon NEC's receipt of notification from the County of any Major Service Outage.

6. Warranty

System must be warranted by NEC and by the manufacturer to be free of defects in equipment, software, and workmanship for a period of one year following System Acceptance.

7. Implementation Guarantee

The COUNTY and NEC agree that if the Cutover for the BSC site is not completed by May 7, 2016, damages to the County would be extremely difficult or impracticable to determine. The following amount is a reasonable estimate and a reasonable sum for such damages.

If NEC fails to complete the Cutover for the BSC site System by May 7, 2016, NEC agrees to pay the County, as fixed and liquidated damages, and in addition to all other damages, the sum of One Thousand Dollars (\$1,000.00) for each calendar day commencing on May 9, 2016, and continuing for a maximum of fourteen (14) days thereafter; provided, however, NEC shall not be liable for such damages if:

- The COUNTY fails to sign and return this Agreement to NEC by February 12, 2016;
- The delay was caused by matters beyond the control of NEC, including force majeure conditions; or
- The delay was caused solely by COUNTY.

Except as otherwise expressly agreed to in writing by an authorized representative of NEC, NEC will not be liable for liquidated damages related to any other Site Systems.

8. Before Cutover of each Site System, CONTRACTOR shall by written license or assignment to COUNTY license or assign all intellectual property required to make the System work that is owned by a third party for which CONTRACTOR is authorized to license or assign such intellectual property to COUNTY. NEC shall also license its intellectual property to COUNTY required to make the system work. All licenses and assignments to COUNTY by CONTRACTOR pursuant to this Agreement shall survive expiration or termination of this Agreement.

End of Step II.

EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation at Selected Milestones (with attached Schedule of Fees)

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$ **395,378.00, which includes \$33,277.00 for contingency.**

- B. Payment for services and /or 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. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **Attachment B1** (Schedule of Fees). Invoices submitted for payment that are based upon **Attachment B1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.

- C. Upon completion of the work for each milestone and/or delivery to COUNTY of item(s) specified below, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed in accomplishing each milestone. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and/or item(s) delivered and if found to be satisfactory and within the cost basis of **Attachment B1**, shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.

Percentage of Total Contract Amount OR Maximum Amount Chargeable of Step I	Milestone Description
50% (\$5,353.95)	NEC's submission of first draft of Step 1 deliverables.
50% (\$5,353.95)	Final Payment due after Acceptance of Step 1 deliverables.
Percentage of Total Contract Amount OR Maximum Amount Chargeable of Step II	Milestone Description
50% (\$175,696.58)	Milestone payment due after Cutover.
50% (\$175,696.58)	Final Payment due after System Acceptance.

The final milestone payment above shall not be made until all services have been completed and item(s) as specified in **EXHIBIT A** have been delivered and found to be satisfactory.

- 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.

Table 1 – Summary shows the total Agreement price including the contingency.

TABLE 1 - EXHIBIT B1 NEC CONTRACT AMOUNT WITH CONTINGENCY			
	BSC	BETTERAVIA	LOMPOC
HARDWARE/SOFTWARE/LICENSES	\$254,216	\$5,662	\$5,662
LABOR	\$52,391	\$12,112	\$2,731
ADDITIONAL LABOR	\$7,420	\$0	\$0
OTHER COSTS - TAX/FREIGHT	\$20,973	\$467	\$467
1st YEAR MAINTENANCE & SOFTWARE	\$0	\$0	\$0
NEC CONTRACT AMOUNT	\$335,000	\$18,241	\$8,860
CONTINGENCY @10%	\$30,661	\$1,777	\$839
NEC CONTRACT AMOUNT W/CONTINGENCY	\$365,661	\$20,018	\$9,699
TOTALS			\$395,378

Table 1.1 – Shows Phase 1 System Design and Data Collection for each site.

TABLE 1.1 - EXHIBIT B1 – PAYMENT SCHEDULE Phase 1 – SYSTEM DESIGN AND DATA COLLECTION								
DSS Site	Equipment	Freight	Labor	Maintenance	Estimated Tax	Estimated Total Billing	Milestone Payment 50%	Final Payment 50%
BSC			\$9,457.62		8.25%	\$9,457.62	\$4,728.81	\$4,728.81
Betteravia			\$1,007.52			\$1,007.52	\$503.76	\$503.76
Lompoc			\$242.76			\$242.76	\$121.38	\$121.38
TOTALS						\$10,707.90	\$5,353.95	\$5,353.95
50% Milestone payment due after NEC's submission of first draft of Step 1 deliverables.								
50% Final Payment due after Acceptance of Step 1 deliverables.								

Table 1.2 – Shows Phase 1 System Procurement and Implementation for each site.

TABLE 1.2 - EXHIBIT B1 – PAYMENT SCHEDULE Phase 2 – SYSTEM PROCUREMENT AND IMPLEMENTATION								
DSS Site	Equipment	Freight	Labor	Maintenance	Estimated Tax	Estimated Total Billing	Milestone Payment 50%	Final Payment 50%
BSC	\$254,216.00	\$0.00	\$50,353.38	\$0.00	\$20,972.82	\$325,542.20	\$162,771.10	\$162,771.10
Betteravia	\$5,662.00	\$0.00	\$11,104.48	\$0.00	\$467.12	\$17,233.60	\$8,616.80	\$8,616.80
Lompoc	\$5,662.00	\$0.00	\$2,488.24	\$0.00	\$467.12	\$8,617.36	\$4,308.68	\$4,308.68
TOTALS	\$265,540.00	\$0.00	\$63,946.10	\$0.00	\$21,907.05	\$351,393.16	\$175,696.58	\$175,696.58
50% Milestone payment due after Cutover.								
50% Final Payment due after System Acceptance.								

Table 1.3 – Shows Phase 1 Contingency for each site. The contingency may be reallocated based on System Design and Data Collection.

TABLE 1.3 - EXHIBIT B1 – PAYMENT SCHEDULE						
Phase 2 – CONTINGENCY						
DSS Site	Equipment	Freight	Labor	Maintenance	Estimated Tax	Estimated Total Billing
BSC						\$30,661
Betteravia						\$1,777
Lompoc						\$839
TOTALS						\$33,277
100% Payment due after System Acceptance.						

Table III - Equipment List					
Description	Unit Price	Discount	Discounted Price	Quantity	Extended
IVR CTI Servers	\$10,000.00	0.00%	\$10,000.00	2	\$20,000
Media Server	\$11,875.00	0.00%	\$11,875.00	1	\$11,875
CTI Base Software for 144 Ports	\$76,125.00	10.00%	\$68,512.50	1	\$68,512
Enhanced Automated Attendant	\$24,600.00	25.00%	\$18,450.00	1	\$18,450
CTI Servernxt - base s/w (144 port pkg)Failover Site	\$26,406.25	25.00%	\$19,805.00	1	\$19,805
Failover Admin App	\$24,000.00	25.00%	\$18,000.00	1	\$18,000
SV8500 IP Endpoint Licenses IVR and Phones	\$74.00	48.64%	\$38.00	194	\$7,372
Callback Suite	\$48,400.00	25.00%	\$36,300.00	1	\$36,300
Scheduled client callback			\$0.00	0	\$0
Part of Callback Suite (included above)					
Announcement to callers in queue of estimated wait time (EWT)			\$0.00	0	\$0
Part of Callback Suite (included above)					
IVR reporting and management package			\$0.00	0	\$0
Part of Callback Suite (included above)					
IVR reporting and management package	\$30,000.00	25.00%	\$22,500.00	1	\$22,500
IVR reporting and management package	\$12,500.00	25.00%	\$9,375.00	2	\$18,750
Integration with the following County systems:					
NEC SV8500 telephone systems , NEC CallCenterWorx/Global Navigator			\$0.00	0	\$0
IP Phones for Betteravia and Lompoc	\$370.00	48.65%	\$190.00	50	\$9,500
Add Scheduled Call Back					\$14,475.00
Subtotal					\$265,539
Estimated Sales Tax				8.25%	\$21,907.01
Total					\$287,446

Table IV - Labor			
Description	Hourly Rate	Hours	Total
Project management NEC	\$150.01	58	\$8,701
Design and engineering TFB (part of install)	\$450.00	16	\$7,200
Install, configure and test IVR Engineer TFB (part of install)	\$450.00	24	\$10,800
Design and engineering NEC	\$185.50	12	\$2,226
Install, configure and test IVR Engineer NEC	\$185.50	12	\$2,226
Install, configure and test IVR Engineer NEC OT	\$278.23	12	\$3,339
Install, configure and test IVR Tech	\$109.67	0	\$0
Install, configure and test IVR Tech OT	\$164.53	0	\$0
Install, configure and test IVR with NEC and other systems as applicable Engineer	\$185.50	48	\$8,904
Install, configure and test IVR with NEC and other systems as applicable Tech	\$109.68	46	\$5,045
Install, configure and test IVR with NEC and other systems as applicable Tech OT	\$164.53	34	\$5,594
Training - Users TFB	\$281.25	8	\$2,250
Training - add moves and changes TFB	\$281.25	16	\$4,500
Training - ACD supervisors, Managers and Key staff TFB	\$281.25	16	\$4,500
SENIOR ENGINEER to Develop and document a business process, best practices workflow analysis to include the following components	\$185.50	40	\$7,420
Immediate Call Back Labor			\$1,950
Total			\$74,655

EXHIBIT C

Indemnification and Insurance Requirements (For Professional 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 and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

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, his 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:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** 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.
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.

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.