

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 dba NEC(NEW) 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) 614-1252 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 03/13/2018 and end performance upon completion, but no later than 12/31/2018 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.

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.

36. SUBAWARD

The CONTRACTOR shall comply with the requirements of 2 CFR Part 300, which are hereby incorporated by reference in this award.

37. 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. Contractor is required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM) located at www.sam.gov. 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.)

38. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

CONTRACTOR shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q.) and pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). CONTRACTOR shall promptly disclose, in writing, to the COUNTY office, to the Federal Awarding Agency, and to the Regional Office of the Environmental Protection Agency (EPA), whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the CONTRACTOR has credible evidence that a principal, employee, agent, or subcontractor of the CONTRACTOR has committed a violation of the Clean Air Act (42 U.S.C. 7401-7671q.) or the Federal Water Pollution Control Act (33 U.S.C. 1251-1387).

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Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **NEC Corporation of America dba NEC(NEW) 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

CONTRACTOR:

NEC Corporation of America dba
NEC(NEW) Corporation of America

By: _____
Daniel Nielson, Director

By: _____

APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Theodore A. Fallati, CPA
Auditor-Controller

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

Risk Management

By: _____
Risk Management

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 (RFP) No.16-01, dated 24 August 2015 incorporated here by reference, and CONTRACTOR's response to the RFP; CONTRACTOR's updated response, dated December 29, 2017 to the Phase 2 – Optional Requirements; and 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 completion of the work outlined in Step I: System Design and Data Collection is a requirement in preparation for Step II: the Procurement and Implementation of a Complex System. CONTRACTOR will perform all necessary tasks, which will result in the properly configured and installed dvsAnalytics' Encore Workforce Optimization (Encore) and Fusion applications to the existing Benefit Service Center (BSC) IVR System and to the private branch exchange (PBX) telephone system for the Department of Social Services (DSS) District offices (all offices other than the BSC) countywide for the following functionality:

- Call Recording
- Screen Capture
- Screen Monitoring
- Telephonic Signature
- Outbound Calling (campaigns, mass notifications, appointment reminders)
- Customer Satisfaction Survey option at end of each call

Step I: System Design and Data Collection:

This phase of the SOW shall be considered to be successfully completed upon CONTRACTOR'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 SOW. This information should reference the associated tasks.

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

1. Assign a Project Manager
 - 1.1. CONTRACTOR shall commence work within two (2) days of receiving notice of the Board execution of the Agreement and shall assign a Project Manager and attend a project kickoff meeting on March 19, 2018 in Santa Maria, Ca.
 - 1.2. CONTRACTOR shall assign and provide a resumé of the Project Manager.
 - 1.3. 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. Conduct User/Station Data Collection Meetings and Finalize Design for Encore applications and installation including:

2.1. Establish Call Recording Functionality, which shall permit:

2.1.1. BSC Automatic Call Distribution (ACD) calls for training, quality assurance and compliance.

2.1.2. Record outbound calls for the BSC staff private branch exchange (PBX) line either automatically or on demand for training, quality assurance and compliance.

2.1.3. Record outbound calls for the District staff PBX line either automatically or on demand for training, quality assurance and compliance.

2.2. Establish Screen Capture Functionality, which shall permit:

2.2.1. Record computer screen movement including screen capture, along with the call recording for the BSC ACD staff for training, quality assurance and compliance.

2.2.2. Record screen capture for the BSC staff PBX line either automatically or on demand for training, quality assurance and compliance.

2.2.3. Record screen capture for the District staff either automatically or on demand for training, quality assurance and compliance.

2.3. Screen Monitoring-Real Time Monitoring

2.3.1. Review and design the ability for screen monitoring to be viewed on the BSC staff ACD line, navigate a computer screen, complete a task or switch between applications for training, quality assurance and compliance.

2.3.2. Review and design the ability for screen monitoring to be viewed on the BSC staff PBX line, navigate a computer screen, complete a task or switch between applications for training, quality assurance and compliance either automatically or on demand.

2.3.3. Review and design the ability for screen monitoring to be viewed on the District staff PBX line, navigate a computer screen, complete a task or switch between applications for training, quality assurance and compliance either automatically or on demand.

2.4. Telephonic Signature

2.4.1. Design screen capture and monitoring to work with Telephonic Signature. Telephonic Signature is defined as a separate call recording for "verbal consents" or "attestations" via the phone.

2.4.1.1. Design for use by the District staff and BSC staff.

2.4.1.2. Review and document a process to store and retrieve only that part of the recording relating to Telephonic Signatures.

3. Conduct User/Station Data Collection Meetings and Finalize Design for Fusion applications and installation including:

3.1. Establish system generated Outbound Calling to include:

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- 3.1.1. Campaigns, mass notification and appointment reminders.
 - 3.1.2. Campaigns such as, notification of specific events and programs.
 - 3.1.2.1.By BSC staff.
 - 3.1.2.2.By District staff.
- 3.2. Customer Satisfaction Survey
 - 3.2.1. Review and confirm that satisfaction voice surveys can be automatically offered to customers, post-call.
 - 3.2.2. Review and confirm design phone template to accommodate button assignments for any new functionality.
- 4. Review Administration Packages for Encore and Fusion
 - 4.1. Design and document installation of the Encore and Fusion System Administration tools.
 - 4.2. Confirm number of users and licenses.
- 5. Review server specifications
 - 5.1. Review types of servers proposed.
 - 5.2. Review and document if the servers proposed need any upgrades.
 - 5.3. Review and document location of the final resting place for servers within existing DSS switch locations.
 - 5.4. Review and document development server specifications and placement, if proposed.
- 6. Identify and Document NEC SV9500 system Interface
 - 6.1. Confirm and document necessary licenses needed for the proposed systems and ACD agents.
 - 6.2. Confirm and document NEC SV9500 system programming requirements, if any.
- 7. Identify and Document Wide Area Network (WAN) Requirements
 - 7.1. Identify and document any augmentations to the WAN for site-to-site connectivity.
 - 7.2. Identify and document requirements for any WAN equipment requirements.
- 8. Develop Cutover Process and Project Plan
 - 8.1. 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.
 - 8.2. Identify and document connectivity requirements (fiber, point-to-point T1s, Microwave etc.) for new Encore equipment sites.
 - 8.3. Provide necessary equipment specifications that the COUNTY will be required to supply.

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- 8.4. Prepare and document Acceptance test criteria for both Encore and Fusion.
9. Develop and document with the COUNTY a mutually agreeable System configuration change management process.
10. Develop with the COUNTY a mutually agreeable Remote Access protocol per County policies.
11. Identify and Document Physical Infrastructure Requirements
 - 11.1. Visit all equipment room(s) that will house Encore equipment. Identify and document any upgrades or clean up required to support the installation.
 - 11.2. Prepare Visio diagram for each equipment room detailing power/circuit type and location of circuits, racks, subsystems, and UPS devices.
12. Prepare a Training Plan for Encore and Fusion Modules
 - 12.1. Prepare, document and implement training plan to include the following considerations.
CONTRACTOR shall get approvals from COUNTY before finalizing the training plan.
 - 12.1.1. Training Schedule.
 - 12.1.2. Class length.
 - 12.1.3. ACD/ PBX Users.
 - 12.1.4. ACD supervisors
 - 12.1.5. Encore/Fusion Reporting Package.
 - 12.1.6. Training material.
 - 12.2. Prepare a technical and administration training plan for system administrators.
 - 12.3. In addition to above training plan work, prepare and provide plan for additional 5 days (40 hours) of Encore system On-Site training after cutover.
13. Prepare and document Step II configuration based on pricing within Attachment B-1 proposal pricing Tables III and IV:
 - 13.1. Hardware.
 - 13.2. Software.
 - 13.3. Licenses.
 - 13.4. Pricing.
14. Prepare Acceptance Testing Criteria for:
 - 14.1. CONTRACTOR provided servers and appropriate software.
 - 14.2. WAN Circuits and WAN Hardware.

- 14.3. Encore and Fusion IVR applications
- 14.4. Uninterruptible Power Supply (UPS) and Battery Backup, if provided by CONTRACTOR.
- 15. Prepare and document business continuity and redundancy requirements.
- 16. Provide Post Installation Warranty and Maintenance Process and Documentation
 - 16.1. Document an escalation chart during implementation and post installation.
 - 16.2. Identify tools, processes and methodology to minimize service interruption.
 - 16.3. Propose a plan to keep COUNTY current on System technology and their training requirements.
 - 16.4. Develop and document the software upgrade process under the Software Assurance Plan.
- 17. Tasks Completion Check List. CONTRACTOR to provide tasks deliverables as identified above and complete Table 1 –Completion Checklist.

Table 1- Completion Checklist

Tasks and Deliverables	Task Completed Yes/No
1 Assign a Project Manager	
2 Conduct User/Station Data Collection Meetings and Finalize Design for Encore Applications	
3 Conduct User/Station Data Collection Meetings and Finalize Design for Fusion Applications and Installation	
4 Review Administration Packages for Encore and Fusion	
5 Review Server Specifications	
6 Identify and Document NEC SV9500 System Interface	
7 Identify and Document WAN Requirements	
8 Develop Cutover Process and Plan	

Table 1- Completion Checklist

Tasks and Deliverables	Task Completed Yes/No
9 Develop and Document with the COUNTY a mutually agreeable System configuration change management process	
10 Develop with the COUNTY a mutually agreeable Remote Access protocol per County policies	
11 Identify and Document Physical Infrastructure Requirements	
12 Prepare a Training Plan for Encore and Fusion Modules	
13 Prepare and document Step II configuration based on pricing within Attachment B-1 proposal pricing Tables III and IV	
14 Prepare Acceptance Testing Criteria	
15 Prepare and document business continuity and redundancy requirements.	
16 Provide Post Installation Warranty and Maintenance Process and Documentation	

End of Step I.

Step II: System Procurement and Implementation

1. Equipment purchase and installation to be completed by September 30, 2018 or earlier.
 - 1.1. After completion of Step I deliverables, CONTRACTOR shall order equipment provided COUNTY approves the order.
 - 1.2. CONTRACTOR shall install, configure, train, test, and Cutover the equipment and related applications based on Encore and Fusion design and installation guidelines.
 - 1.3. CONTRACTOR shall provide Acceptance testing schedule for the hardware/software listed as a result of Section 14 of Step I.
 - 1.4. CONTRACTOR shall work cooperatively with the COUNTY's Information Communication and Technology staff to complete programming, testing, and cutover of server equipment by equipment room.
 - 1.5. CONTRACTOR shall provide helpdesk function during the Cutover.
 - 1.6. CONTRACTOR to provide documentation for installed applications.

2. Post Installation Support Services

- 2.1. Prepare a maintenance support services contract for years 2 to 5 per the CONTRACTOR's updated response, dated December 29, 2017 to the Phase 2 – Optional Requirements.

3. System

The "System" is defined as all hardware and labor components for the Encore; Fusion; NEC SV9500 telephone system; all software; and all management tools 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 Encore, Fusion and interface with the NEC SV9500 Systems.

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 the System, CONTRACTOR 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 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 CONTRACTOR or (b) provide CONTRACTOR with a written notification ("Punchlist") detailing how the Cutover fails to materially conform with the then-current requirements for such Site System.

5. System Acceptance

- 5.1. The COUNTY shall be present and witness to all such tests at the time of performance testing by CONTRACTOR. When tests have been completed to CONTRACTOR's satisfaction, CONTRACTOR shall give the COUNTY written notice that the tests have been successfully completed. CONTRACTOR shall provide copies of tests and any required certification that all applicable standards and specifications have been met.
- 5.2. CONTRACTOR must demonstrate that the System has been installed based on Step I Design, and is in accordance with the manufacturers' specifications. There will be an Acceptance Clock that runs for 30 days following the Cutover of the System based on CONTRACTOR's Acceptance Criteria established during Step I. 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 30 day Acceptance period, the COUNTY will provide written approval that Acceptance has been achieved.
- 5.3. The Acceptance Clock will stop or be reset to zero upon CONTRACTOR's receipt of notification from the COUNTY of any Major Service Outage.

6. Warranty

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

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 **\$491,001 which includes \$44,636 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 B-1** . Invoices submitted for payment that are based upon **Attachment B-1** 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 B-1**, 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% (\$9,300.50)	CONTRACTOR's submission and approval by COUNTY Representative of first draft of Step I deliverables.
50% (\$9,300.50)	Final Payment due after Acceptance and approval of COUNTY Representative of Step I deliverables.
Percentage of Total Contract Amount OR Maximum Amount Chargeable of Step II	Milestone Description
50% (\$213,882)	Milestone payment due after Cutover.
50% (\$213,882)	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.

Attachment B-1

Table 2 – Summary shows the total Agreement price including the contingency.

TABLE 2 - ATTACHMENT B-1 CONTRACT AMOUNT WITH CONTINGENCY	
HARDWARE/SOFTWARE/LICENSES	\$317,859
LABOR	\$63,504
LABOR - ADDITIONAL FOR 5 DAYS OF ONSITE TRAINING	\$10,899
TAX	\$25,429
FREIGHT	\$5,200
MAINTENANCE (1st YEAR)	\$23,474
CONTRACT AMOUNT SUBTOTAL	\$446,365
CONTINGENCY (10%)	\$44,636
TOTAL: Contract amount with contingency	\$491,001

Table 2.1 – Shows Step I System Design and Data Collection.

TABLE 2.1 - ATTACHMENT B-1 – PAYMENT SCHEDULE STEP I – SYSTEM DESIGN AND DATA COLLECTION							
Hardware/ Software/Licenses	Labor (25% of total labor cost)	Estimated Tax	Freight	Maintenance	Estimated Total Billing	Milestone Payment 50%	Final Payment 50%
	\$18,601				\$18,601	\$9,300.50	\$9,300.50
TOTALS					\$18,601	\$9,300.50	\$9,300.50

Table 2.2 – Shows Step II System Procurement and Implementation.

TABLE 2.2 - ATTACHMENT B-1 – PAYMENT SCHEDULE STEP II – SYSTEM PROCUREMENT AND IMPLEMENTATION								
	Hardware/ Software/ Licenses	Labor (75% of total labor cost)	Estimated Tax	Freight	Maintenance	Estimated Total Billing	Milestone Payment 50%	Final Payment 50%
	\$317,859	\$55,802	\$25,429	\$5,200	\$23,474	\$427,764	\$213,882	\$213,882
TOTALS	\$317,859	\$55,802	\$25,429	\$5,200	\$23,474	\$427,764	\$213,882	\$213,882

Table III - Equipment List (From NEC Response, December 29, 2017 - IVR Pricing tab)			
Description	Unit Price	Quantity	Extended
Hardware (HA) to Support IVR Applications		0	\$0.00
NEC Server with High end Storage	\$6,993.00	1	\$6,993.00
NEC WEB Server	\$5,457.04	1	\$5,457.00
Encore VoIP Server	\$7,133.44	5	\$35,667.00
Software to Support IVR Applications	\$0.00	0	\$0.00
ENCORE ENTERPRISE SYS SW (1PER SYS)	\$4,461.23	1	\$4,461.00
ENCORE ENT REM/RED SYS SW	\$1,349.99	4	\$5,400.00
ENCORE NEC SV85/95 CT INTEGRATION LIC	\$2,698.94	1	\$2,699.00
SQL STD 2012 MEDIA & 4 CORE LIC	\$3,647.89	1	\$3,648.00
Licenses to Support IVR Applications	\$0.00	0	\$0.00
Recording Licenses	\$226.20	300	\$67,860.00
VoIP Recording Licenses	\$98.70	300	\$29,610.00
Feature Requirements as follows:	\$0.00	0	\$0.00
Ability to Record Calls	\$0.00	0	\$0.00
Screen Capture	\$0.00	0	\$0.00
Screen Monitoring	\$0.00	0	\$0.00
Telephonic Signature	\$3,598.59	1	\$3,599.00
Outbound Calling (campaigns, mass notifications, appointment reminders)	\$58,169.01	1	\$58,169.00
Outbound Calling (campaigns, mass notifications, appointment reminders)	\$44,366.20	1	\$44,366.00
Provide Customer Satisfaction Survey option at end of each call	\$47,323.94	1	\$47,324.00
Reporting and management package(S)	\$0.00	0	\$0.00
Integration with the following County systems:	\$0.00	0	\$0.00
NEC SV9500 telephone systems , NEC CallCenterWorx/Global Navigator	\$521.13	5	\$2,606.00
Subtotal			\$317,859.00
Estimated Sales Tax		8.00%	\$25,429.00
Total			\$343,288.00

Table IV - Labor (From NEC Response, December 29, 2017 - Labor & Prof. Services tab)			
Description	Hourly Rate	Hours	Total
Project management	\$131.03	78	\$10,220.00
Design and engineering/Install/Training/on-going Training (Encore)	\$10,898.59	1	\$10,899.00
Design and engineering/Install (Fusion) Remote	\$11,267.61	1	\$11,268.00
Design and engineering (NEC)	\$162.03	46	\$7,453.00
Install, configure and test IVR (Encore) Part of Line 3	\$0.00	0	\$0.00
Install, configure and test IVR (Fusion) Part of Line 3.1	\$0.00	0	\$0.00
Install, configure and test IVR with NEC and other systems as applicable (Encore) part of Line 3	\$0.00	0	\$0.00
Install, configure and test IVR with NEC and other systems as applicable (Fusion) Part of Line 3.1	\$0.00	0	\$0.00
Training - Users (Encore) Part of Install	\$0.00	0	\$0.00
Training - Users Remote (Fusion) Remote	\$2,535.21	1	\$2,535.00
Training - add moves and changes (Encore) Part of Install	\$0.00	0	\$0.00
Training - add moves and changes (Fusion) Remote	\$2,535.21	0	\$0.00
Training - ACD supervisors, Managers and Key staff - Onsite. Please include recommended training and follow up training for 6 months. (Encore) Part of Install Remote	\$0.00	0	\$0.00
Training - ACD supervisors, Managers and Key staff - Onsite. Please include recommended training and follow up training for 6 months.	\$2,535.21	3	\$7,606.00
Other technical labor cost	\$95.80	75	\$7,185.00
Installed equipment configuration diagrams and documentation, if applicable	\$0.00	0	\$0.00
Travel			\$6,338.00
Total			\$63,504.00
Freight			\$5,200.00
ADDITIONAL TRAINING - Encore System On-Site Training - 5 Days - West Coast (includes Travel) (After Cutover)	\$ 10,899.00		\$ 10,899.00

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.