

LOS ANGELES FIRE DEPARTMENT



BRIAN CUMMINGS
FIRE CHIEF

October 24, 2012

BOARD OF FIRE COMMISSIONERS
FILE NO. 12-183

TO: Board of Fire Commissioners

FROM: Brian Cummings, Fire Chief

SUBJECT: PROPOSED AGREEMENTS WITH THE LOS ANGELES COUNTY DEPARTMENT OF HEALTH SERVICES AND FIRSTWATCH SOLUTIONS, INC. FOR THE ACCEPTANCE OF GRANT FUNDS AND THE CONTINUATION OF A SYNDROMIC SURVEILLANCE PROGRAM

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

Recommendations: That the Board, subject to the approval by the City Council and Mayor:

1. ACCEPT funds provided by the United States Department of Health and Human Services (USDHH) grant award, in the amount of \$67,615 as awarded through the Los Angeles County Department of Health Services (LACDHS).
2. APPROVE the attached Public Health Preparedness, Emergency and Response Services Agreement from the LACDHS (Attachment A) which provides funding for the continuation of the syndromic surveillance program for the period of September 1, 2012 through to June 30, 2013.
3. AUTHORIZE the Fire Chief to execute the LACDHS Agreement, and any subsequent amendments on behalf of the City, subject to approval to form by the City Attorney.
4. AUTHORIZE the Fire Chief to accept disbursement of grant funds from the LACDHS in the amount of \$67,615 in FY2012-13 and each year thereafter to FY2016-17, subject to funding by LACDHS, up to a total grant award of \$338,075.
5. AUTHORIZE the Fire Chief to execute the attached sole source contract with FirstWatch Solutions, Inc., subject to approval to form by the City Attorney, for the period of September 1, 2012 to June 30, 2013 (Attachment B) and future amendments subject to approval of funding by LACDHS.

6. INSTRUCT the Controller to deposit \$67,615, and subsequent allocations authorized by USDHHS, and through LACDHS, into Fund 335/38, 38500C, for the purpose to continue the contract agreement with First Watch Solutions, Inc.

Summary: In 2007, the LAFD partnered with the Los Angeles County Emergency Medical Services (LACEMS) Agency, and funded by a grant from the USDHHS, to implement a syndromic surveillance program in the Los Angeles area (Council File # 07-2155; CAO File # 0130-01936-0000; BFC# 07-053).

In August 2012, the LACDHS informed the LAFD that it had assumed the program from the LAC EMS Agency and through continued funding from the USDHHS requests the LAFD to continue as a project partner of syndromic surveillance software application for the period of September 1, 2012 through June 30, 2013. LACDHS informed the LAFD that funding may be available over a five year period. Should additional grant funding be available then LACDHS may desire to continue the program in future years through to FY2016-17. If this is the case, then LACDHS would provide to the LAFD funds of \$67,615 each year, for a total potential award of \$338,075.

Table 1. Potential Grant Fund Award

FY2012-13	\$	67,615.00	Approved by LACDHS
FY2013-14	\$	67,615.00	Subject to funding by LACDHS
FY2014-15	\$	67,615.00	Subject to funding by LACDHS
FY2015-16	\$	67,615.00	Subject to funding by LACDHS
FY2016-17	\$	67,615.00	Subject to funding by LACDHS
Total	\$	338,075.00	Potential Award by LACDHS

The acceptance of grant funds from LACDHS requires the approval of the City Council and Mayor under Division 14 of the Los Angeles City Charter. The continuation of the syndromic surveillance program requires the LAFD enter into an agreement with FirstWatch Solutions, Inc. The syndromic surveillance program was installed and configured by FirstWatch Solutions, Inc. under Agreement No. C-112458. The attached agreement between the LAFD and FirstWatch Solutions, Inc., which includes the software license agreement to continue the syndromic surveillance program, is a sole-source agreement as defined under City Charter Section 371(e).

The syndromic surveillance (or bio-surveillance) program serves as an early warning system for the detection of bioterrorist events and collects/analyzes statistical data on health trends in the Los Angeles area. The LAFD's 9-1-1 EMS incident data is collected real-time from the LAFD's computer aided dispatch system, immediately processed to determine if appropriate triggers have been activated and alert authorized key personnel.

In order to continue the syndromic surveillance program, the LAFD will need to continue the use of the software application that was installed and configured under the agreement between the LAFD and FirstWatch Solutions, Inc. in 2007 (C-112458). The continued use of the software requires the LAFD to enter into a new professional services agreement (which includes a software maintenance agreement) with FirstWatch Solutions, Inc. (Attachment B).

Conclusion: The partnership that has existed between the LAFD, LACDHS (LACEMS) and USDHHS has proven invaluable with regard to establishing and maintaining a system that electronically monitors EMS events in the City and can report directly to the Center for Disease Control criteria that may indicate a potential terrorist event.

The continuation of the program with grant funding from USDHHS through LACDHS will allow the LAFD to remain at the forefront of intelligence gathering efforts in the EMS arena.

Subject to the approval by the Board of Fire Commissioners, City Council and Mayor, the LAFD will enter into a new agreement with LACDHS to accept the offer of grant funds for the continuation of the syndromic surveillance program with FirstWatch Solutions, Inc. for \$67,615 in FY2012-13 and up to a total grant award of \$338,075 through to FY2016-17.

This Board Report was prepared by William Jones, Senior Management Analyst II, Contracts and Grants Section, Financial Services Division

Attachments

Attachment A

Public Health Preparedness, Emergency and Response Services Agreement

Between

County of Los Angeles Department of Health Services

And

City of Los Angeles Fire Department

Paragraph

TABLE OF CONTENTS

Page

1. TERM..... - 4 -

2. DESCRIPTION OF SERVICES: - 5 -

3. MAXIMUM OBLIGATION OF COUNTY - 5 -

4. NONEXCLUSIVITY - 5 -

5. BILLING AND PAYMENT - 5 -

6. RECOVERY OF PAYMENT/EQUIPMENT: - 6 -

7. FUNDING/SERVICES ADJUSTMENTS AND REALLOCATIONS - 6 -

8. BUDGET REDUCTION..... - 8 -

9. COUNTY’S OBLIGATION FOR FUTURE FISCAL YEARS..... - 8 -

10. NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION/TERMINATION OF AGREEMENT - 9 -

11. INDEMNIFICATION..... - 9 -

12. GENERAL PROVISIONS FOR ALL INSURANCE COVERAGES..... - 10 -

13. INSURANCE COVERAGE REQUIREMENTS - 17 -

14. ASSIGNMENT AND DELEGATION..... - 19 -

15. SUBCONTRACTING..... - 20 -

16. COMPLIANCE WITH APPLICABLE LAW - 23 -

17. COMPLIANCE WITH CIVIL RIGHTS LAWS..... - 23 -

18. ADDITIONAL PROVISIONS - 24 -

19. CONSTRUCTION - 24 -

20. CONFLICT OF TERMS..... - 24 -

21. ALTERATION OF TERMS..... - 25 -

22. CONTRACTOR’S OFFICES - 25 -

23. NOTICES..... - 26 -

Contract No. PH - _____

CITY OF LOS ANGELES
PUBLIC HEALTH PREPAREDNESS, EMERGENCY AND RESPONSE SERVICES
AGREEMENT

THIS AGREEMENT is made and entered into this _____ day
of _____, 2012,

by and between

COUNTY OF LOS ANGELES (hereafter
"County")

and

CITY OF LOS ANGELES (hereafter
"Contractor")

WHEREAS, Section 101025 of the California Health and Safety Code places upon the County's Board of Supervisors ("Board") the duty to preserve and protect the public's health; and

WHEREAS, Section 101000 of the California Health and Safety Code requires the Board to appoint a County Health Officer; who under this Agreement is the Director of Department of Public Health (hereafter "DPH" or "Department"), in order to prevent the spread of occurrence of communicable contagious and infectious diseases within the jurisdiction of County; and

WHEREAS, the County Health Officer's duties under this Agreement include the County's providing Public Health Preparedness, Emergency and Response project within the County; and

WHEREAS, the term "Director" as used herein refers to the Director of County's DPH, or his authorized designee (hereafter jointly referred to as "Director"); and

WHEREAS, County is authorized by Government Code Section 53703 et eq., to do all acts necessary to participate in any federal program whereby federal funds are granted to County for purposes of health, education, welfare, and other public services described herein; and

WHEREAS, County has been allocated funds from the Federal Centers for Disease Control and Prevention ("CDC"), Catalog of Federal Domestic Assistance Number 93.069 and 93.074 for the Public Health Emergency Preparedness of which a portion of these funds has been designated to upgrade local public health jurisdictional preparedness efforts in order to respond to acts of bioterrorism, outbreaks of infectious disease, and other public health threats and emergencies; and

WHEREAS, County has limited staff with the expertise to perform and complete this work within the required time line of this Agreement; and

WHEREAS, Contractor possesses the competence, expertise, facilities, and personnel to provide the services described hereunder; and

WHEREAS, Contractor is willing to provide the services described herein for and in consideration of the payments provided under this agreement and under the terms and conditions hereafter set forth; and

WHEREAS, County is authorized by Government Code Section 31000 to contract for these services.

WHEREAS, City is a County emergency medical services provider and is equipped, staffed, and willing to provide dispatch data to assist in surveillance of terrorism events for and in consideration of funds for use by City under this Agreement and upon the conditions hereinafter set forth; and

WHEREAS, it is the desire and intention of the parties to cooperate in the development, implementation, and evaluation of a surveillance program that utilizes City dispatch data to enhance the County's PH preparedness and response. Its purpose is to establish, in a manner reflective of such cooperative basis that (a) appropriate dispatch data is provided to the County by the Contractor; (b) the specific duties and responsibilities of the parties with respect to this dispatch data surveillance program as expressed herein are addressed; and (c) appropriate procedures are implemented to assist in the evaluation of a surveillance signal.

NOW, THEREFORE, the parties hereto agree as follows:

1. TERM:

A. This Agreement shall be effective September 1, 2012, and shall continue in full force through June 30, 2013, with a Director's option to extend the Agreement, via an amendment, for four additional one year terms through June 30, 2017, contingent upon availability of funds.

B. In any event, this Agreement may be cancelled or terminated by either party, with or without cause, upon the giving of at least thirty (30) calendar days' prior written notice to the other party. Further, County may also suspend the performance of services hereunder, in whole or in part, and with or without cause, upon the giving of at least a thirty (30) calendar days advance written notice to Contractor. County's notice shall set forth the extent of the suspension and the requirements for full restoration of the performance obligations.

Notwithstanding any other provision of this Agreement, the failure of Contractor or its officers, employees, agents, or subcontractors, to comply with any of the terms of this Agreement or any written directions by or on behalf of County issued pursuant hereto shall constitute a material breach hereto, and this Agreement may be terminated by County immediately. County's failure to exercise this right of termination shall not constitute a waiver of such right, which may be exercised at any subsequent time.

2. DESCRIPTION OF SERVICES:

A. Contractor shall provide services in the form as described in Exhibit A, "Statement of Work - PHEP Base", Exhibit A-1, Scope of Work, and Schedule A, "BUDGET", attached hereto and incorporated herein by reference.

B. Contractor acknowledges that the quality of service(s) provided under this Agreement shall be at least equivalent to that which Contractor provides to all other clients it serves.

3. MAXIMUM OBLIGATION OF COUNTY:

Effective September 1, 2012 through June 30, 2013, the maximum obligation of County for all services provided hereunder shall not exceed Sixty-Seven Thousand, Six Hundred Seventeen Dollars (\$67,617), for services as described in the Exhibit A, "Statement of Work – PHEP Base" and Schedule A, "BUDGET", attached hereto and incorporated herein by reference.

4. NONEXCLUSIVITY: Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Agreement shall not restrict Department from acquiring similar, equal or like goods and/or services from other entities or sources.

5. BILLING AND PAYMENT:

A. County agrees to compensate in accordance with the payment structure set forth in the Exhibit(s) and Schedule(s), attached hereto and

incorporated herein by reference. Contractor shall not be entitled to payment for reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein.

B. In no event shall County be required to pay Contractor more, for all services provided hereunder, than the maximum obligation of County as set forth in the MAXIMUM OBLIGATION OF COUNTY paragraph of this Agreement unless otherwise revised or amended under the terms of this Agreement.

6. RECOVERY OF PAYMENT/EQUIPMENT: City shall return monies and/or equipment provided by County, if City fails to provide dispatch data to Public Health. Compliance to be determined at the sole discretion of the County.

7. FUNDING/SERVICES ADJUSTMENTS AND REALLOCATIONS:

A. Upon Director's specific written approval, County may increase or decrease the funding or reallocate funds to an Exhibit, Schedule and/or Budget category in this Agreement where such funds can be more effectively used by Contractor, up to ten percent (10%) above or below each term's annual base maximum obligation and make corresponding service adjustments, as necessary, based on the following: (1) if additional monies are available from federal, State, or County funding sources; (2) if a reduction of monies occur from federal, State, or County funding sources; and/or (3) if County determines from reviewing

Contractor's records of service delivery and billings to County that a significant underutilization of funds provided under this Agreement will occur over its term.

All funding adjustments and reallocation as allowed under this Paragraph may be effective upon amendment execution or at the beginning of the applicable contract term, to the extent allowed by the funding source following the provision of written notice from Director, or his/her designee, to Contractor. Reallocation of funds in excess of the aforementioned amount shall be approved by County's Board of Supervisors. Any change to the County maximum obligation or reallocation of funds to an Exhibit, Schedule and/or Budget category in this Agreement shall be effectuated by an amendment to this Agreement pursuant to the ALTERATION OF TERMS Paragraph of this Agreement.

B. County and Contractor shall review Contractor's expenditures and commitments to utilize any funds, which are specified in this Agreement for the services hereunder and which are subject to time limitations as determined by Director, midway through each County fiscal year during the term of this Agreement, midway through the applicable time limitation period for such funds if such period is less than a County fiscal year, and/or at any other time or times during each County fiscal year as determined by Director. At least fifteen (15) calendar days prior to each such review, Contractor shall provide Director with a current update of all of Contractor's expenditures and commitments of such funds during such fiscal year or other applicable time period.

8. BUDGET REDUCTION:

In the event that the Board adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County Agreements, the County reserves the right to reduce its payment obligation under this Agreement correspondingly for that fiscal year and any subsequent fiscal year during the term of this Agreement (including any extensions), and the services to be provided by the Contractor under this Agreement shall also be reduced correspondingly. County's notice to Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, Contractor shall continue to provide all of the services set forth in this Agreement.

9. COUNTY'S OBLIGATION FOR FUTURE FISCAL YEARS:

Notwithstanding any other provision of this Agreement, County shall not be obligated by any activity or services performed hereunder, or by any provisions of this Agreement, during any of County's fiscal years (July 1 – June 30) unless and until the Board appropriates funds for this Agreement in County's budget for each such fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall be deemed to have terminated on June 30th of the last County fiscal year for which funds were appropriated. County shall notify Contractor in writing of such non-appropriation of funds at the earliest possible date.

If for any reason funding to this Agreement is terminated or reduced, County shall have the right to immediately terminate this Agreement in whole or in part. Notice of such termination shall be served upon Contractor in writing.

10. NO PAYMENT FOR SERVICES PROVIDED FOLLOWING

EXPIRATION/TERMINATION OF AGREEMENT:

Contractor acknowledges that no services shall be provided beyond the expiration date of this Agreement even if such services were requested by County. Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or other termination of this Agreement. Should Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/ termination of this Agreement shall not constitute a waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Agreement.

11. INDEMNIFICATION:

Contractor shall indemnify, defend, and hold harmless County and its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or

connected with Contractor's acts and/or omissions arising from and/or relating to this Agreement.

Each of the parties to this Agreement is a public entity. In contemplation of the provisions of Section 895.2 of the Government Code of the State of California's imposing certain tort liability jointly upon public entities, solely by reason of such entities being parties to an Agreement as defined by Section 895 of said Code, the parties hereto, as between themselves, pursuant to the authorization contained in Section 895.4 and 895.6 of said Code, will each assume the full liability imposed upon it or upon any of his officers, agents, or employees by law, for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-stated purpose, each party indemnifies and holds harmless the other party for any cost or expense that may be imposed upon such other party solely by virtue of said Section 895.2. The provision of Section 2778 of the California Civil Code is made a part hereto as if fully set forth herein.

12. GENERAL PROVISIONS FOR ALL INSURANCE COVERAGES:

Without limiting Contractor's indemnification of County and in the performance of this Contract and until all of its obligations pursuant to this Contract have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in this paragraph and the

INSURANCE COVERAGE REQUIREMENTS Paragraph of this agreement. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Contractor pursuant to this Contract. The County in no way warrants that the Required Insurance is sufficient to protect the Contractor for liabilities which may arise from or relate to this Contract.

A. Evidence of Coverage and Notice to County: A certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and its Agents (defined below) has been given Insured status under the Contractor's General Liability policy, shall be delivered to the County at the address shown below and provided prior to commencing services under this Contract.

Renewal Certificates shall be provided to County not less than ten (10) calendar days prior to Contractor's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Contractor and/or Sub-Contractor insurance policies at any time.

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

coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000) dollars, and list any County required endorsement forms.

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

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

County of Los Angeles
Department of Public Health
Contract Monitoring Division
5555 Ferguson Drive, Suite 210
Commerce, California 90022
Attention: Chief of Contract Monitoring

Contractor also shall promptly report to County any injury or property damage accident or incident, including any injury to a Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Contractor. Contractor also shall promptly notify County of any third party claim or suit filed against Contractor or any of its Sub-Contractors which arises from or relates to this Contract, and could result in the filing of a claim or lawsuit against Contractor and/or County.

B. Additional Insured Status and Scope of Coverage: The County of Los Angeles, its special Districts, Elected Officials, Officers, Agents, Employees and Volunteers (collectively County and its Agents) shall be provided additional insured status under Contractor's General Liability policy with respect to liability arising out of Contractor's ongoing and completed operations performed on behalf of the County. County and its Agents additional insured status shall apply with respect to liability and defense of suits arising out of the Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the County. The full policy limits and scope of protection also shall apply to the County and its Agents as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Provisions herein.

C. Cancellation of or Changes in Insurance: Contractor shall provide County with, or Contractor's insurance policies shall contain a provision that County shall receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the Contract,

in the sole discretion of the County, upon which the County may suspend or terminate this Contract.

D. Failure to Maintain Insurance: Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Contract, upon which County immediately may withhold payments due to Contractor, and/or suspend or terminate this Contract. County, at its sole discretion, may obtain damages from Contractor resulting from said breach. Alternatively, the County may purchase the Required Insurance, and without further notice to Contractor, deduct the premium cost from sums due to Contractor or pursue Contractor reimbursement.

E. Insurer Financial Ratings: Coverage shall be placed with insurers acceptable to the County with an A.M. Best ratings of not less than A: VII unless otherwise approved by County.

F. Contractor's Insurance Shall Be Primary: Contractor's insurance policies, with respect to any claims related to this Agreement, shall be primary with respect to all other sources of coverage available to Contractor. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Contractor coverage.

G. Waivers of Subrogation: To the fullest extent permitted by law, the Contractor hereby waives its rights and its insurer(s)' right of recovery against County under all the Required Insurance for any loss arising from or relating to this

Agreement. The Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

H. Compensation for County Costs: In the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Contractor shall pay full compensation for all costs incurred by County.

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

J. Deductibles and Self-Insured Retentions (SIRs): Contractor's policies shall not obligate the County to pay any portion of any Contractor deductible or SIR. The County retains the right to require Contractor to reduce or eliminate policy deductibles and SIRs as respects to the County, or to provide a bond guaranteeing Contractor's payment of all deductibles and SIRs, including all related claims

investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

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

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

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

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

O. County Review and Approval of Insurance Requirements: The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

13. INSURANCE COVERAGE REQUIREMENTS:

A. Commercial General Liability insurance (providing scope of coverage equivalent to Insurance Services Office ["ISO"] policy form "CG 00 01"), naming County and its Agents as an additional insured, with limits of not less than:

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

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

C. Workers' Compensation and Employers' Liability insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability

coverage with limits of not less than \$1 million per accident. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Contractor's operations, coverage shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

D. Sexual Misconduct Liability: Insurance covering actual or alleged claims for sexual misconduct and/or molestation with limits of not less than Two Million Dollars (\$2,000,000) per claim and Two Million Dollars (\$2,000,000) aggregate, and claims for negligent employment, investigation, supervision, training or retention of, or failure to report to proper authorities, a person(s) who committed any act of abuse, molestation, harassment, mistreatment or maltreatment of a sexual nature.

E. Professional Liability/Errors and Omissions: Insurance covering Contractor's liability arising from or related to this Contract, with limits of not less than \$1 million per claim and Two Million Dollars (\$2,000,000) aggregate. Further, Contractor understands and agrees it shall maintain such coverage for a period of

not less than three (3) years following this Agreement's expiration, termination or cancellation.

14. ASSIGNMENT AND DELEGATION:

A. Contractor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this Subparagraph, County consent shall require a written amendment to the Agreement, which is formally approved and executed by the parties. Any payments by County to any approved delegate or assignee on any claim under this Agreement shall be deductible, at County's sole discretion, against the claims, which Contractor may have against County.

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

C. Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any

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

15. SUBCONTRACTING:

A. For purposes of this Agreement, subcontracts must be approved in writing by Director or his/her authorized designee(s). Contractor's request to Director for approval of a subcontract shall include:

(1) Identification of the proposed subcontractor, (who shall be licensed as appropriate for provision of subcontract services), and an explanation of why and how the proposed subcontractor was selected, including the degree of competition involved.

(2) A detailed description of the services to be provided by the subcontract.

(3) The proposed subcontract amount and manner of compensation, if any, together with Contractor's cost or price analysis thereof.

(4) A copy of the proposed subcontract. (Any later modification of such subcontract shall take the form of a formally written subcontract amendment which also must be approved in writing by Director in the same manner as described above, before such amendment is effective.)

(5) Any other information and/or certification(s) requested by Director.

B. Director shall review Contractor's request to subcontract and shall determine, in his/her sole discretion, whether or not to consent to such a request on a case-by-case basis.

C. Subcontracts shall be made in the name of Contractor and shall not bind nor purport to bind County. The making of subcontracts hereunder shall not relieve Contractor of any requirement under this Agreement, including, but not limited to, the duty to properly supervise and coordinate the work of subcontractors. Further, Director's approval of any subcontract shall also not be construed to limit in any way, any of County's rights or remedies contained in this Agreement.

D. In the event that Director consents to any subcontracting, Contractor shall be solely liable and responsible for any and all payments or other compensation to all subcontractors, and their officers, employees, and agents.

E. In the event that Director consents to any subcontracting, such consent shall be subject to County's right to terminate, in whole or in part, any subcontract at

any time upon written notice to Contractor when such action is deemed by County to be in its best interest. County shall not be liable or responsible in any way to Contractor, or any subcontractor, or to any officers, employees, or agents, of Contractor, or any subcontractor, for any liability, damages, costs, or expenses, arising from or related to County's exercising of such a right.

F. Subcontracts shall contain the following provision: "This contract is a subcontract under the terms of a prime contract with the County of Los Angeles and shall be subject to all of the provisions of such prime contract." Further, Contractor shall also reflect as subcontractor requirements in the subcontract form all of the requirements of the INDEMNIFICATION, GENERAL PROVISIONS FOR ALL INSURANCE COVERAGES, INSURANCE COVERAGE REQUIREMENTS, COMPLIANCE WITH APPLICABLE LAW, CONFLICT OF TERMS, and ALTERATION OF TERMS paragraphs of the body of this Agreement, and all of the provisions of the Additional Provisions attachment.

Contractor shall deliver to Director a fully executed copy of each subcontract entered into by Contractor, as it pertains to the provision of services under this Agreement, on or immediately after the effective date of the subcontract, but in no event, later than the date any services are to be performed under the subcontract.

G. Director is hereby authorized to act for and on the behalf of County pursuant to this Paragraph, including but not limited to, consenting to any subcontracting.

16. COMPLIANCE WITH APPLICABLE LAW:

A. Contractor shall comply with the requirements of all federal, State, and local laws, ordinances, regulations, rules, guidelines, and directives, applicable to its performance hereunder. To the extent there is any conflict between federal and State or local laws, the former shall prevail.

Any reference to a specific statute, regulation, or any other document not prepared by County is deemed to include a reference to any amendment thereto as of the effective date of such amendment; further, this Agreement shall be interpreted and the parties' duties and obligations under this Agreement shall be consistent with any amendment to any applicable statute, regulation or other document not prepared by County which occurs after the effective date of the Agreement.

B. Contractor shall indemnify and hold harmless County from and against any and all loss, damage, liability, or expense resulting from any violation on the part of Contractor, its officers, employees, or agents, of such federal, State, or local laws, regulations, guidelines, or directives.

17. COMPLIANCE WITH CIVIL RIGHTS LAWS:

Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion,

ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

18. ADDITIONAL PROVISIONS:

Attached hereto and incorporated herein by reference, is a document labeled ADDITIONAL PROVISIONS, of which the terms and conditions therein contained are part of this Agreement.

19. CONSTRUCTION:

To the extent there are any rights, duties, obligations, or responsibilities enumerated in the recitals or otherwise in this Agreement, they shall be deemed a part of the operative provisions of this Agreement and are fully binding upon the parties.

20. CONFLICT OF TERMS:

To the extent that there exists any conflict or inconsistency between the language of this Agreement (including its ADDITIONAL PROVISIONS) and that of any Exhibit(s), Attachment(s), and any documents incorporated herein by reference, the language found within this Agreement shall govern and prevail.

21. ALTERATION OF TERMS:

The body of this Agreement (including its ADDITIONAL PROVISIONS), and any Exhibit(s) attached hereto, fully expresses all understandings of the parties concerning all matters covered and shall constitute the total Agreement. No addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, employees or agents, shall be valid and effective unless made in the form of a written amendment to this Agreement which is formally approved and executed by the parties in the same manner as this Agreement.

22. CONTRACTOR'S OFFICES:

Contractor's office is located at 200 North Main Street, Los Angeles, CA 90012. Contractor's business telephone number is (213) 978-3800, facsimile (FAX) number is (213) 978-3712, and electronic Mail (e-mail) address is lafdcommunityliaison@lacity.org. Contractor shall notify County, in writing, of any changes made to their business address, business telephone number, FAX number and/or e-mail address as listed herein, or any other business address, business telephone number, FAX number and/or e-mail address used in the provision of services herein, at least ten (10) calendar days prior to the effective date(s) thereof.

23. NOTICES:

Notices hereunder shall be in writing and may either be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, attention to the parties at the addresses listed below. Director is authorized to execute all notices or demands which are required or permitted by County under this Agreement. Addresses and parties to be notified may be changed by providing at least ten (10) working days prior written notice to the other party.

A. Notices to County shall be addressed as follows:

- (1) Department of Public Health
Acute Communicable Disease Control Program
313 North Figueroa Street, Room 222
Los Angeles, California 90012-2659

Attention: Director

- (2) Department of Public Health
Contracts and Grants Division
313 North Figueroa Street, 6th Floor-West
Los Angeles, California 90012-2659

Attention: Division Chief

B. Notices to Contractor shall be addressed as follows:

- (1) City of Los Angeles
200 North Main Street
Los Angeles, California 90012

Attention: Fire Chief

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be subscribed by its Director of Public Health, and Contractor has caused this Agreement to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

COUNTY OF LOS ANGELES

By _____
Jonathan E. Fielding, M.D., M.P.H.
Director and Health Officer

CITY OF LOS ANGELES
Contractor

By _____
Signature

Printed Name

Title _____
(AFFIX CORPORATE SEAL)

APPROVED AS TO FORM
BY THE OFFICE OF THE COUNTY COUNSEL
John F. Krattli
County Counsel

APPROVED AS TO CONTRACT
ADMINISTRATION:

Department of Public Health

By _____
Patricia Gibson, Chief
Contracts and Grants Division

#02327

CITY OF LOS ANGELES
PUBLIC HEALTH PREPAREDNESS, EMERGENCY, AND RESPONSE SERVICES
AGREEMENT

STATEMENT OF WORK

I. CITY RECEIVABLES:

City shall receive from the County:

Funding of Sixty Seven Thousand Six Hundred and Seventeen Dollars (\$67,617), which will be provided in a lump sum to City upon receipt of a request for reimbursement.. The City will pay for software system maintenance fees from a data mining vendor and continue to work with this vendor to provide a real-time interface between City Computer Aided Dispatch and data mining vendor. This interface will allow real-time information to be shared with key personnel, which includes City and Department of Public Health (DPH) Acute Communicable Disease Control Program, Automated Disease Surveillance Section. The sharing of information will be via a web-based application that is password protected and will also include an alert/notification function that would alert key personnel when a significant volume increase of dispatch calls are identified. Based on volumetric or geographic trends the alerted personnel will determine the nature and significance of the occurrence, and will take appropriate steps to warn and protect the public, if necessary.

II. CITY DELIVERABLES:

City shall:

- A. Work with the identified data mining vendor to maintain software license and interface with their computer aided dispatch system and provide data to the County.
- B. Provide website view of real-time dispatch data to DPH ACDC Program, Automated Disease Surveillance Section. This dispatch data will be used to perform public health monitoring, i.e. early event disease surveillance;
- C. Provide data to the DPH Automated Disease Surveillance Section through an automatic transfer of detail level dispatch data in real-time/near real-time from City data mining vendor to DPH Automated Disease Surveillance Section on an hourly basis, and;
- D. Provide key Public Health staff with alerts when volumetric and/or geographic trends are detected.

III. Key Project Personnel

The Director of the Automated Disease Surveillance Section, or designee, is designated County Project Manager, who shall have full authority to act for County in all matters connected with this Agreement consistent with the provisions contained herein. The key Automated Disease Surveillance Section staff contact is the Contract Program Auditor.

The City Fire Chief, or designee, is the designated City Project Manager. The key City contact is the City Director of Systems, Management of Information Systems Section.

CITY OF LOS ANGELES
PUBLIC HEALTH PREPAREDNESS, EMERGENCY,
AND RESPONSE SERVICES AGREEMENT

SCOPE OF WORK

CONTRACTOR NAME: City of Los Angeles

TERM: September 1, 2012 through June 30, 2013

Goal: To obtain both 911 calls raw data and access to a 911 calls web-based application, that analyzes and sends alert/notifications to key personnel when significant increases in call volume are identified, from a data mining vendor for disease surveillance purposes.

OBJECTIVE	ACTIVITIES	TERM	Documentation/ Evaluation
To work with a data mining vendor to gain access to real-time web-based interface with data analysis results and also obtain a direct, raw data feed to DPH ACDC Program, Automated Disease Surveillance Section to conduct public health disease surveillance activities.	Maintenance of live 911 database for surveillance and early detection of emerging diseases, outbreaks or possible bioterrorism. Analyze data upon alert notification and investigate if necessary.	September 1, 2012 through June 30, 2013	Receipt of 911 dispatch data.

CITY OF LOS ANGELES
PUBLIC HEALTH PREPAREDNESS, EMERGENCY, AND RESPONSE
SERVICES AGREEMENT

BUDGET

FirstWatch 911 Dispatch Data - Acute Communicable Disease Control Program

September 1, 2012 through June 30, 2013

September 1, 2012 through June 30, 2013	\$67,617.00
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TOTAL PROGRAM BUDGET NOT TO EXCEED	\$67,617.00
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Total budget covers annual maintenance fees of the software system provided by the data mining vendor. An invoice for the full term of this budget period will be submitted by Contractor upon execution of Agreement. Payment will be made within thirty (30) days upon receipt of a complete and correct invoice from contractor.

CONTRACT No. _____

ADDITIONAL PROVISIONS

**PUBLIC HEALTH PREPAREDNESS, EMERGENCY AND
RESPONSE SERVICES AGREEMENT**

ADDITIONAL PROVISIONS
CITY OF LOS ANGELES
PUBLIC HEALTH PREPAREDNESS, EMERGENCY AND RESPONSE
SERVICES AGREEMENT

<u>Paragraph</u>	TABLE OF CONTENTS	<u>Page</u>
1. ADMINISTRATION:.....		1
2. FORM OF BUSINESS ORGANIZATION AND FISCAL DISCLOSURE AND REAL PROPERTY DISCLOSURE:		1
3. NONDISCRIMINATION IN SERVICES:		5
4. NONDISCRIMINATION IN EMPLOYMENT:		7
5. FAIR LABOR STANDARDS ACT:		9
6. EMPLOYMENT ELIGIBILITY VERIFICATION:		10
7. COUNTY EMPLOYEES'S RIGHT OF FIRST REFUSAL AND CONTRACTOR'S OFFERS OF EMPLOYMENT:.....		10
8. CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS:..		12
9. RECORDS AND AUDITS:		12
10. REPORTS:		19
11. PUBLIC ANNOUNCEMENTS, LITERATURE:		20
12. CONFIDENTIALITY:.....		21
13. CONTRACTOR'S OBLIGATION AS A NON-BUSINESS ASSOCIATE UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OF 1996:		22
14. RESTRICTIONS ON LOBBYING:		23
15. UNLAWFUL SOLICITATION:		24
16. LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS, CERTIFICATES:.....		25

17. CONFLICT OF INTEREST:	25
18. PURCHASES:	26
19. RETURN OF COUNTY MATERIALS:	28
20. SERVICE DELIVERY SITE - MAINTENANCE STANDARDS:	29
21. DAMAGE TO COUNTY BUILDINGS, FACILITIES, OR GROUNDS:	29
22. STAFFING AND TRAINING/STAFF DEVELOPMENT:	30
23. INDEPENDENT CONTRACTOR STATUS:.....	31
24. NO INTENT TO CREATE A THIRD PARTY BENEFICIARY CONTRACT:....	32
25. TERMINATION FOR INSOLVENCY, DEFAULT, GRATUITIES, AND/OR IMPROPER CONSIDERATIONS, AND CONVENIENCE:.....	32
26. PROHIBITION AGAINST PERFORMANCE OF SERVICES WHILE UNDER THE INFLUENCE:	36
27. NOTICE OF DELAYS:.....	36
28. AUTHORIZATION WARRANTY:.....	37
29. WAIVER:	37
30. SEVERABILITY:	37
31. GOVERNING LAWS AND JURISDICTION AND VENUE:	38
32. SOLICITATION OF BIDS OR PROPOSALS:.....	38
33. CONTRACTOR PERFORMANCE DURING CIVIL UNREST OR DISASTER:.....	39
34. COUNTY'S QUALITY ASSURANCE PLAN:	39
35. COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM:	40
36. CONTRACTOR'S EXCLUSION FROM PARTICIPATION IN A FEDERALLY FUNDED PROGRAM:	41

37. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT: 42

38. CONTRACTOR RESPONSIBILITY AND DEBARMENT:..... 43

39. DEFAULTED PROPERTY TAX REDUCTION PROGRAM..... 46

40. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS (45 C.F.R. PART 76): 47

41. RULES AND REGULATIONS: 48

42. COVENANT AGAINST CONTINGENT FEES:..... 49

43. RECYCLED CONTENT BOND PAPER: 49

44. COMPLIANCE WITH THE COUNTY’S JURY SERVICE PROGRAM: 49

45. SAFELY SURRENDERED BABY LAW:..... 52

46. CONTRACTOR’S CHARITABLE ACTIVITIES COMPLIANCE:..... 52

ADDITIONAL PROVISIONS
CITY OF LOS ANGELES
PUBLIC HEALTH PREPAREDNESS, EMERGENCY AND RESPONSE
SERVICES AGREEMENT

1. ADMINISTRATION:

County's Director of Public Health or his/her authorized designee(s) (hereafter collectively "Director") shall have the authority to administer this Agreement on behalf of County. Contractor agrees to extend to Director the right to review and monitor Contractor's programs, policies, procedures, and financial and/or other records, and to inspect its facilities for contractual compliance at any reasonable time.

2. FORM OF BUSINESS ORGANIZATION AND FISCAL

DISCLOSURE AND REAL PROPERTY DISCLOSURE:

A. Form of Business Organization: Contractor shall prepare and submit, to Director upon request, a statement executed by Contractor's duly constituted officers, containing the following information:

- (1) The form of Contractor's business organization, i.e., sole-proprietorship, partnership, or corporation.
- (2) Articles of Incorporation and by-laws.
- (3) A detailed statement indicating whether Contractor is totally or substantially owned by another business organization.
- (4) A detailed statement indicating whether Contractor totally or partially owns any other business organization that will be

providing services, supplies, materials, or equipment to Contractor or in any manner does business with Contractor under this Agreement.

(5) If, during the term of this Agreement, the form of Contractor's business organization changes, or the ownership of Contractor changes, or the Contractor's ownership of other businesses dealing with Contractor under this Agreement changes, Contractor shall notify Director in writing detailing such changes within thirty (30) calendar days prior to the effective date thereof.

B. Fiscal Disclosure: Contractor shall prepare and submit to Director, within ten (10) calendar days following execution of this Agreement a statement, executed by Contractor's duly constituted officers, containing the following information:

(1) A detailed statement listing all sources of funding to Contractor including private contributions. The statement shall include the nature of the funding, services to be provided, total dollar amount, and period of time of such funding.

(2) If during the term of this Agreement, the source(s) of Contractor's funding changes, Contractor shall promptly notify Director in writing detailing such changes.

C. Real Property Disclosure: If Contractor is renting, leasing, or subleasing, or is planning to rent, lease, or sublease, any real property

where persons are to receive services hereunder, Contractor shall prepare and submit to Director, within ten (10) calendar days following execution of this Agreement, an affidavit sworn to and executed by Contractor's duly constituted officers, containing the following information:

(1) The location by street address and city of any such real property.

(2) The fair market value of any such real property as such value is reflected on the most recently issued County Tax Collector's tax bill.

(3) A detailed description of all existing and pending rental agreements, leases, and subleases with respect to any such real property, such description to include: the term (duration) of such rental agreement, lease, or sublease; the amount of monetary consideration to be paid to the lessor or sublessor over the term of the rental agreement, lease or sublease; the type and dollar value of any other consideration to be paid to the lessor or sublessor over the term of the rental agreement, lease, or sublease; the full names and addresses of all parties who stand in the position of lessor or sublessor; if the lessor or sublessor is a private corporation and its shares are not publicly traded (on a stock exchange or over-the-counter), a listing by full names of all officers, directors, and

stockholders thereof; and if the lessor or sublessor is a partnership, a listing by full names of all general and limited partners thereof.

(4) A listing by full names of all Contractor's officers, directors, members of its advisory boards, members of its staff and consultants, who have any family relationships by marriage or blood with a lessor or sublessor referred to in Subparagraph (3) immediately above, or who have any financial interest in such lessor's or sublessor's business, or both. If such lessor or sublessor is a corporation or partnership, such listing shall also include the full names of all Contractor's officers, members of its advisory boards, members of its staff and consultants, who have any family relationship, by marriage or blood, to an officer, director, or stockholder of the corporation, or to any partner of the partnership. In preparing the latter listing, Contractor shall also indicate the name(s) of the officer(s), director(s), stockholder(s), or partner(s), as appropriate, and the family relationship which exists between such person(s) and Contractor's representatives listed.

(5) If a facility of Contractor is rented or leased from a parent organization or individual who is a common owner (as defined by Federal Health Insurance Manual 15, Chapter 10, Paragraph 1002.2), Contractor shall only charge the program for costs of

ownership. Costs of ownership shall include depreciation, interest, and applicable taxes.

True and correct copies of all written rental agreements, leases, and subleases with respect to any such real property shall be appended to such affidavit and made a part thereof.

3. NONDISCRIMINATION IN SERVICES:

Contractor shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ethnic group identification, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirements of federal and State laws, or in any manner on the basis of the client's/ patient's sexual orientation. For the purpose of this Paragraph, discrimination in the provision of services may include, but is not limited to, the following: denying any person any service or benefit or the availability of the facility; providing any service or benefit to any person which is not equivalent, or is provided in a non-equivalent manner, or at a non-equivalent time, from that provided to others; subjecting any person to segregation or separate treatment in any manner related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirements or conditions which persons must meet in order

to be provided any service or benefit. Contractor shall take affirmative action to ensure that intended beneficiaries of this Agreement are provided services without regard to race, color, religion, national origin, ethnic group identification, ancestry, sex, age, condition of physical or mental handicap, or sexual orientation.

Facility access for handicapped must comply with the Rehabilitation Act of 1973, Section 504, where federal funds are involved, and the Americans with Disabilities Act. Contractor shall further establish and maintain written procedures under which any person, applying for or receiving services hereunder, may seek resolution from Contractor of a complaint with respect to any alleged discrimination in the provision of services by Contractor's personnel. Such procedures shall also include a provision whereby any such person, who is dissatisfied with Contractor's resolution of the matter, shall be referred by Contractor to the Director, for the purpose of presenting his or her complaint of alleged discrimination. Such procedures shall also indicate that if such person is not satisfied with County's resolution or decision with respect to the complaint of alleged discrimination, he or she may appeal the matter to the State Department of Health Services' Affirmative Action Division. At the time any person applies for services under this Agreement, he or she shall be advised by Contractor of these procedures. A copy of such nondiscrimination in services policy and procedures, as identified hereinabove, shall be posted

by Contractor in a conspicuous place, available and open to the public, in each of Contractor's facilities where services are provided hereunder.

4. NONDISCRIMINATION IN EMPLOYMENT:

A. Contractor certifies and agrees, pursuant to the Americans with Disabilities Act, the Rehabilitation Act of 1973, and all other federal and State laws, as they now exist or may hereafter be amended, that it shall not discriminate against any employee or applicant for employment because of, race, color, religion, national origin, ethnic group identification, ancestry, sex, age, or condition of physical or mental handicap, or sexual orientation. Contractor shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to race, color, religion, national origin, ethnic group identification, ancestry, sex, age, condition of physical or mental handicap, or sexual orientation in accordance with requirements of federal and State laws. Such action shall include, but shall not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor shall post in conspicuous places in each of Contractor's facilities providing services hereunder, positions available and open to employees and applicants for employment, and notices setting forth the provisions of this Paragraph.

B. Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, national origin, ethnic group identification, ancestry, sex, age, condition of physical or mental handicap, or sexual orientation, in accordance with requirements of federal and State laws.

C. Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract of understanding a notice advising the labor union or workers' representative of Contractor's commitments under this Paragraph.

D. Contractor certifies and agrees that it shall deal with its subcontractors, bidders, or vendors without regard to race, color, religion, national origin, ethnic group identification, ancestry, sex, age, condition of physical or mental handicap, or sexual orientation, in accordance with requirements of federal and State laws.

E. Contractor shall allow federal, State, and County representatives, duly authorized by Director, access to its employment records during regular business hours in order to verify compliance with the anti-discrimination provisions of this Paragraph. Contractor shall provide such other information and records as such representatives may require in order to verify compliance with the anti-discrimination provisions of this Paragraph.

F. If County finds that any provisions of this Paragraph have been violated, the same shall constitute a material breach of contract upon which Director may suspend or County may determine to terminate this Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission that Contractor has violated federal or State anti-discrimination laws shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Agreement.

G. The parties agree that in the event Contractor violates any of the anti-discrimination provisions of this Paragraph, County shall be entitled, at its option, to the sum of Five Hundred Dollars (\$500) pursuant to California Civil Code Section 1671 as liquidated damages in lieu of canceling, terminating, or suspending this Agreement.

5. FAIR LABOR STANDARDS ACT:

Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless County, its agents, officers, and employees from any and all liability including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law including, but not limited to, the Federal Fair Labor Standards Act

for services performed by Contractor's employees for which County may be found jointly or solely liable.

6. EMPLOYMENT ELIGIBILITY VERIFICATION:

Contractor warrants that it fully complies with all federal statutes and regulations regarding employment of aliens and others, and that all its employees performing services hereunder meet the citizenship or alien status requirements contained in federal statutes and regulations.

Contractor shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by federal statutes and regulations, as they currently exist and as they may be hereafter amended. Contractor shall retain such documentation for all covered employees for the period prescribed by law. Contractor shall indemnify, defend, and hold harmless County, its officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County in connection with any alleged violation of federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Agreement.

7. COUNTY EMPLOYEES'S RIGHT OF FIRST REFUSAL AND CONTRACTOR'S OFFERS OF EMPLOYMENT:

To the degree permitted by Contractor's agreements with its collective bargaining units, Contractor shall give the right of first refusal for

its employment openings at Contractor's facility to qualified County employees who are laid-off or who leave County employment in lieu of reduction under County's Civil Service Rule 19, and who are referred to Contractor by Director (including those on a County re-employment list). Such offers of employment shall be limited to vacancies in Contractor's staff needed to commence services under this Agreement, as well as, to vacancies that occur during the Agreement term. Such offers of employment shall be consistent with Contractor's current employment policies, and shall be made to any former or current County employee who has made application to Contractor, and is qualified for the available position. Employment offers shall be at least under the same conditions and rates of compensations which apply to other persons who are employed or may be employed by Contractor. Former County employees who have been impacted by County's Civil Service Rule 19, and who are employed by Contractor shall not be discharged during the term of the Agreement except for cause, subject to Contractor's personnel policies and procedures, and agreement(s) with its collective bargaining units. Contractor shall also give first consideration to laid-off or reduced County employees if vacancies occur at Contractor's other service sites during the Agreement term.

8. CONSIDERATION OF HIRING GAIN/GROW PROGRAM

PARTICIPANTS:

A. Should Contractor require additional or replacement personnel after the effective date of this Agreement, Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that Contractor will interview qualified candidates. County will refer GAIN/GROW participants by job category to Contractor.

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

9. RECORDS AND AUDITS:

A. Service Records: Contractor shall maintain all service records related to this agreement for a minimum period of five (5) years following the expiration or prior termination of this Agreement. Contractor shall provide upon request by County, accurate and complete records of its activities and operations as they relate to the provision of services, hereunder. Records shall be accessible as detailed in the subsequent sub-paragraph.

B. Financial Records: Contractor shall prepare and maintain on a current basis, complete financial records in accordance with generally accepted accounting principles and also in accordance with written guidelines, standards, and procedures which may from time to time be promulgated by Director. Such records shall clearly reflect the actual cost of the type of service for which payment is claimed and shall include, but not be limited to:

(1) Books of original entry which identifies all designated donations, grants, and other revenues, including County, federal, and State revenues and all costs by type of service.

(2) A General Ledger.

(3) A written cost allocation plan which shall include reports, studies, statistical surveys, and all other information Contractor used to identify and allocate indirect costs among Contractor's various services. Indirect costs shall mean those costs incurred for a common or joint objective which cannot be identified specifically with a particular project or program

(4) Personnel records which show the percentage of time worked providing services claimed under this Agreement. Such records shall be corroborated by payroll timekeeping records, signed by the employee and approved by the employee's supervisor, which show time distribution by programs and the

accounting for total work time on a daily basis. This requirement applies to all program personnel, including the person functioning as the executive director of the program, if such executive director provides services claimed under this Agreement.

(5) Personnel records which account for the total work time of personnel identified as indirect costs in the approved contract budget. Such records shall be corroborated by payroll timekeeping records signed by the employee and approved by the employee's supervisor. This requirement applies to all such personnel, including the executive director of the program, if such executive director provides services claimed under this Agreement.

The entries in all of the aforementioned accounting and statistical records must be readily traceable to applicable source documentation (e.g., employee timecards, remittance advice, vendor invoices, appointment logs, client/patient ledgers). The client/patient eligibility determination and fees charged to, and collected from clients/patients must also be reflected therein. All financial records shall be retained by Contractor at a location within Los Angeles County during the term of this Agreement and for a minimum period of five (5) years following expiration or earlier termination of this Agreement, or until federal, State and/or County audit findings are resolved, whichever is later. During such retention period, all such records shall be made available during normal

business hours within (10) calendar days, to authorized representatives of federal, State, or County governments for purposes of inspection and audit. In the event records are located outside Los Angeles County and Contractor is unable to move such records to Los Angeles County, then Contractor shall permit such inspection or audit to take place at an agreed to outside location, and Contractor shall pay County for all travel, per diem, and other costs incurred by County for any inspection and audit at such other location. Contractor shall further agree to provide such records, when possible, immediately to County by facsimile/FAX, or through the Internet (i.e., electronic mail ["e-mail"]), upon Director's request. Director's request shall include appropriate County facsimile/FAX number(s) and/or e-mail address (es) for Contractor to provide such records to County. In any event, Contractor shall agree to make available the original documents of such FAX and e-mail records when requested by Director for review as described hereinabove.

C. Preservation of Records: If following termination of this Agreement Contractor's facility is closed or if ownership of Contractor changes, within forty-eight (48) hours thereafter, the Director is to be notified thereof by Contractor in writing and arrangements are to be made by Contractor for preservation of the client/patient and financial records referred to hereinabove.

D. Audit Reports: In the event that an audit of any or all aspects of this Agreement is conducted of Contractor by any federal or State auditor, or by any auditor or accountant employed by Contractor or otherwise, Contractor shall file a copy of each such audit report(s) with the Chief of the County's Department of Public Health ("DPH") Contract Monitoring Division, and with County's Auditor-Controller (Auditor-Controller's Audit Branch) within thirty (30) calendar days of Contractor's receipt thereof, unless otherwise provided for under this Agreement, or under applicable federal or State regulations. To the extent permitted by law, County shall maintain the confidentiality of such audit report(s).

E. Independent Audit: Contractor's financial records shall be audited by an independent auditor for every year that this Agreement is in effect.

The audit shall satisfy the requirement of the Federal Office of Management and Budget (OMB) Circular Number A-133. The audit shall be made by an independent auditor in accordance with Governmental Financial Auditing Standards developed by the Comptroller General of the United States, and any other applicable federal, State, or County statutes, policies, or guidelines. Contractor shall complete and file such audit report(s) with the County's DPH – Department of Public Health – Financial Services Division no later than the earlier of thirty (30) days after receipt

of the auditor's report(s) or nine (9) months after the end of the audit period.

If the audit report(s) is not delivered by Contractor to County within the specified time, Director may withhold all payments to Contractor under all service agreements between County and Contractor until such report(s) is delivered to County.

The independent auditor's work papers shall be retained for a minimum of three (3) years from the date of the report, unless the auditor is notified in writing by County to extend the retention period. Audit work papers shall be made available for review by federal, State, or County representatives upon request.

F. Federal Access to Records: If, and to the extent that, Section 1861(v) (1) (I) of the Social Security Act [42 United States Code ("U.S.C.") Section 1395x(v)(1)(I)] is applicable, Contractor agrees that for a period of five (5) years following the furnishing of services under this Agreement, Contractor shall maintain and make available, upon written request, to the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States, or to any of their duly authorized representatives, the contracts, books, documents, and records of Contractor which are necessary to verify the nature and extent of the cost of services provided hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through any subcontract with a value or

cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period with a related organization (as that term is defined under federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents, and records of the subcontractor.

G. Program and Audit/Compliance Review: In the event County representatives conduct a program review and/or an audit/compliance review of Contractor, Contractor shall fully cooperate with County's representatives. Contractor shall allow County representatives access to all records of services rendered and all financial records and reports pertaining to this Agreement and shall allow photocopies to be made of these documents utilizing Contractor's photocopier, for which County shall reimburse Contractor its customary charge for record copying services, if requested. Director shall provide Contractor with at least ten (10) working days prior written notice of any audit/compliance review, unless otherwise waived by Contractor.

County may conduct a statistical sample audit/compliance review of all claims paid by County during a specified period. The sample shall be determined in accordance with generally accepted auditing standards. An exit conference shall be held following the performance of such audit/compliance review at which time the results shall be discussed with

Contractor. Contractor shall be provided with a copy of any written evaluation reports.

Contractor shall have the opportunity to review County's findings on Contractor, and Contractor shall have thirty (30) calendar days after receipt of County's audit/ compliance review results to provide documentation to County representatives to resolve the audit exceptions. If, at the end of the thirty (30) calendar day period, there remains audit exceptions which have not been resolved to the satisfaction of County's representatives, then the exception rate found in the audit, or sample, shall be applied to the total County payment made to Contractor for all claims paid during the audit/compliance review period to determine Contractor's liability to County.

H. Failure to Comply: Failure of Contractor to comply with the terms of this Paragraph shall constitute a material breach of contract upon which Director may suspend or County may immediately terminate this Agreement.

10. REPORTS:

Contractor shall make reports as required by County, or DPH, concerning Contractor's activities and operations as they relate to this Agreement and the provision of services hereunder. In no event, however may County, or DPH, require such reports unless Director has provided Contractor with at least thirty (30) calendar days' prior written notification

thereof. Director's notification shall provide Contractor with a written explanation of the procedures for reporting the information required.

11. PUBLIC ANNOUNCEMENTS, LITERATURE:

Contractor agrees that all materials, public announcements, literature, audiovisuals, and printed materials utilized in association with this Agreement, shall have prior written approval from the Director or his/her designee prior to its publication, printing, duplication, and implementation with this Agreement. All such materials, public announcements, literature, audiovisuals, and printed material shall include an acknowledgment that funding for such public announcements, literature, audiovisuals, and printed materials was made possible by the County of Los Angeles, Department of Public Health and other applicable funding sources. Contractor further agrees that all public announcements, literature, audiovisuals, and printed material developed or acquired by Contractor or otherwise, in whole or in part, under this Agreement, and all works based thereon, incorporated therein, or derived there from, shall be the sole property of County.

Contractor hereby assigns and transfers to County in perpetuity for all purposes all Contractors' rights, title, and interest in and to all such items, including, but not limited to, all unrestricted and exclusive copyrights and all renewals and extensions thereof.

With respect to any such items which come into existence after the commencement date of the Agreement, Contractor shall assign and transfer to County in perpetuity for all purposes, without any additional consideration, all Contractor's rights, title, and interest in and to all such items, including, but not limited to, all unrestricted and exclusive copyrights and all renewals and extensions thereof.

For the purposes of this Agreement, all such items shall include, but not be limited to, written materials (e.g., curricula, text for vignettes, text for public service announcements for any and all media types, pamphlets, brochures, fliers), audiovisual materials (e.g., films, videotapes), and pictorials (e.g., posters and similar promotional and educational materials using photographs, slides, drawings, or paintings).

12. CONFIDENTIALITY:

Contractor agrees to maintain the confidentiality of its records and information including, but not limited to, billings, County records, and client/patient records, in accordance with all applicable federal, State, and local laws, ordinances, rules, regulations, and directives relating to confidentiality. Contractor shall inform all its officers, employees, agents, subcontractors, and others providing services hereunder of said confidentiality provision of this Agreement. Contractor shall indemnify and hold harmless County, its officers, employees, and agents, from and against any and all loss, damage, liability, and expense arising out of any

disclosure of such records and information by Contractor, its officers, employees, agents, and subcontractors.

13. CONTRACTOR'S OBLIGATION AS A NON-BUSINESS ASSOCIATE UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OF 1996:

The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"). Contractor understands and agrees that, as a provider of medical treatment services, it is a "covered entity" under HIPAA and, as such, has obligations with respect to the confidentiality, privacy and security of patient's medical information, and must take certain steps to preserve the confidentiality of this information, both internally and externally, including the training of its staff and the establishment of proper procedures for the release of such information, and the use of appropriate consents and authorizations specified under HIPAA.

The parties acknowledge their separate and independent obligations with respect to HIPAA, and that such obligations relate to transactions and code sets, privacy, and security. Contractor understands and agrees that it is separately and independently responsible for compliance with HIPAA in all these areas and that County has not undertaken any responsibility for compliance on Contractor's behalf. Contractor has not relied, and will not in any way rely, on County for legal

advice or other representations with respect to Contractor's obligations under HIPAA, but will independently seek its own counsel and take the necessary measures to comply with the law and its implementing regulations.

“CONTRACTOR AND COUNTY UNDERSTAND AND AGREE THAT EACH IS INDEPENDENTLY RESPONSIBLE FOR HIPAA COMPLIANCE AND AGREE TO TAKE ALL NECESSARY ACTIONS TO COMPLY WITH THE REQUIREMENTS OF THE HIPAA LAW AND IMPLEMENTING REGULATIONS RELATED TO TRANSACTIONS AND CODE SET, PRIVACY AND SECURITY. EACH PARTY FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE OTHER PARTY (INCLUDING THEIR OFFICERS, EMPLOYEES, AND AGENTS), FOR ITS FAILURE TO COMPLY WITH HIPAA.”

14. RESTRICTIONS ON LOBBYING:

A. Federal Certification and Disclosure Requirement: Because federal monies are to be used to pay for Contractor's services under this Agreement, Contractor shall comply with all certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (Title 31, U.S.C., Section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds provided under this Agreement also fully comply with all such certification and disclosure requirements.

B. County Lobbyists: Contractor and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Contractor, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County lobbyist or County lobbying firm retained by Contractor to fully comply with the County Lobbyist Ordinance shall constitute a material breach of contract upon which Director may suspend or County may immediately terminate this Agreement.

15. UNLAWFUL SOLICITATION:

Contractor shall require all of its employees performing services hereunder to acknowledge in writing understanding of and agreement to comply with the provisions of Article 9 of Chapter 4 of Division 3 (commencing with Section 6150) of the Business and Professions Code of the State of California (i.e., State Bar Act provisions regarding unlawful solicitation as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to ensure that there is no violation of such provisions by its employees. Contractor shall utilize the attorney referral services of all those bar associations within Los Angeles County that have such a service.

16. LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS, CERTIFICATES:

Contractor shall obtain and maintain during the term of this Agreement, all appropriate licenses, permits, registrations, accreditations, and certificates required by federal, State, and local law for the operation of its business and for the provision of services hereunder. Contractor shall ensure that all of its officers, employees, and agents who perform services hereunder obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations, accreditations, and certificates required by federal, State, and local law which are applicable to their performance hereunder. Contractor shall provide a copy of each license, permit, registration, accreditation, and certificate upon request of County's Department of Public Health (DPH) - at any time during the term of this Agreement.

17. CONFLICT OF INTEREST:

A. No County employee whose position in County enables him/her to influence the award or administration of this Agreement or any competing agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor, or have any other direct or indirect financial interest in this Agreement. No officer or employee of Contractor who may financially benefit from the provision of services hereunder shall in any way participate in County's approval, or

ongoing evaluation, of such services, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such services.

B. Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. Contractor warrants that it is not now aware of any facts which create a conflict of interest. If Contractor hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to Director. Full written disclosure shall include, without limitation, identification of all persons implicated and complete description of all relevant circumstances.

18. PURCHASES:

A. Purchase Practices: Contractor shall fully comply with all Federal, State, and County laws, ordinances, rules, regulations, manuals, guidelines, and directives, in acquiring all furniture, fixtures, equipment, materials, and supplies. Such items shall be acquired at the lowest possible price or cost if funding is provided for such purposes hereunder.

B. Proprietary Interest of County: In accordance with all applicable Federal, State, and County laws, ordinances, rules, regulations, manuals, guidelines, and directives, County shall retain all proprietary interest, except their use during the term of this Agreement, in all furniture, fixtures, equipment, materials, and supplies, purchased or obtained by Contractor

using any contract funds designated for such purpose. Upon the expiration or earlier termination of this Agreement, the discontinuance of the business of Contractor, the failure of Contractor to comply with any of the provisions of this Agreement, the bankruptcy of Contractor or its giving an assignment for the benefit of creditors, or the failure of Contractor to satisfy any judgment against it within thirty (30) calendar days of filing, County shall have the right to take immediate possession of all such furniture, removable fixtures, equipment, materials, and supplies, without any claim for reimbursement whatsoever on the part of Contractor. County, in conjunction with Contractor, shall attach identifying labels on all such property indicating the proprietary interest of County.

C. Inventory Records, Controls, and Reports: Contractor shall maintain accurate and complete inventory records and controls for all furniture, fixtures, equipment, materials, and supplies, purchased or obtained using any contract funds designated for such purpose. Within ninety (90) calendar days following the effective date of this Agreement, Contractor shall provide Director with an accurate and complete inventory report of all furniture, fixtures, equipment, materials, and supplies, purchased or obtained using any County funds designated for such purpose.

D. Protection of Property in Contractor's Custody: Contractor shall maintain vigilance and take all reasonable precautions, to protect all

furniture, fixtures, equipment, materials, and supplies, purchased or obtained using any contract funds designated for such purpose, against any damage or loss by fire, burglary, theft, disappearance, vandalism, or misuse. Contractor shall contact Director, for instructions for disposition of any such property which is worn out or unusable.

E. Disposition of Property in Contractor's Custody: Upon the termination of the funding of any program covered by this Agreement, or upon the expiration or earlier termination of this Agreement, or at any other time that County may request, Contractor shall: (1) provide access to and render all necessary assistance for physical removal by Director or his authorized representatives of any or all furniture, fixtures, equipment, materials, and supplies, purchased or obtained using any County funds designated for such purpose, in the same condition as such property was received by Contractor, reasonable wear and tear expected; or (2) at Director's option, deliver any or all items of such property to a location designated by Director. Any disposition, settlement, or adjustment connected with such property shall be in accordance with all applicable Federal, State, and County laws, ordinances, rules, regulations, manuals, guidelines, and directives.

19. RETURN OF COUNTY MATERIALS:

At expiration or earlier termination of this Agreement, Contractor shall provide an accounting of any unused or unexpended supplies

purchased by Contractor with funds obtained pursuant to this Agreement and shall deliver such supplies to County upon County's request.

20. SERVICE DELIVERY SITE - MAINTENANCE STANDARDS:

Contractor shall assure that the locations where services are provided under provisions of this Agreement are operated at all times in accordance with County community standards with regard to property maintenance and repair, graffiti abatement, refuse removal, fire safety, landscaping, and in full compliance with all applicable local laws, ordinances, and regulations relating to the property. County's periodic monitoring visits to Contractor's facilities shall include a review of compliance with the provisions of this Paragraph.

21. DAMAGE TO COUNTY BUILDINGS, FACILITIES, OR GROUNDS:

Contractor shall repair, or cause to be repaired, at its own cost, any damage to County buildings, facilities, or grounds, caused by Contractor or any officer, employee, or agent of Contractor. Such repairs shall be made immediately after

Contractor has become aware of such damage, but in no event, later than thirty (30) calendar days after the occurrence.

If Contractor fails to make timely repairs, County may make any necessary repairs on its own. All costs incurred by County for such repairs, as determine by Director, shall be repaid by Contractor upon demand.

22. STAFFING AND TRAINING/STAFF DEVELOPMENT:

Contractor shall operate continuously throughout the term of this Agreement with at least the minimum number of staff required by County. Such personnel shall be qualified in accordance with standards established by County. In addition, Contractor shall comply with any additional staffing requirements which may be included in the Exhibit(s) attached hereto.

During the term of this Agreement, Contractor shall have available and shall provide upon request to authorized representatives of County, a list of persons by name, title, professional degree, salary, and experience who are providing services hereunder. Contractor also shall indicate on such list which persons are appropriately qualified to perform services hereunder. If an executive director, program director, or supervisory position becomes vacant during the term of this Agreement, Contractor shall, prior to filling said vacancy, notify County's Director. Contractor shall provide the above set forth required information to County's Director regarding any candidate prior to any appointment. Contractor shall institute and maintain appropriate supervision of all persons providing services pursuant to this Agreement.

Contractor shall institute and maintain a training/staff development program pertaining to those services described in the Exhibit(s) attached hereto. Appropriate training/staff development shall be provided for

treatment, administrative, and support personnel. Participation of treatment and support personnel in training/staff development should include in-service activities. Such activities shall be planned and scheduled in advance; and shall be conducted on a continuing basis. Contractor shall develop and institute a plan for an annual evaluation of such training/staff development program.

23. INDEPENDENT CONTRACTOR STATUS:

A. This Agreement is by and between County and Contractor and is not intended, and shall not be construed, to create the relationship of employee, agent, servant, partnership, joint venture, or association, as between County and Contractor. The employees and agents of one party shall not be, or be construed to be, employees or agents of the other party for any purpose whatsoever.

B. Contractor shall be solely liable and responsible for providing to, or on behalf of, its officers and employees all legally required employee benefits. County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, federal, State, and local taxes, or other compensation, benefits, or taxes to, or on behalf of, any personnel provided by Contractor.

C. Contractor understands and agrees that all persons furnishing services to County pursuant to this Agreement are, for purposes of workers' compensation liability, the sole employees of Contractor and not

employees of County. Contractor shall bear the sole liability and responsibility for furnishing workers' compensation benefits to any person for injuries arising from or connected with services performed by or on behalf of Contractor pursuant to this Agreement.

24. NO INTENT TO CREATE A THIRD PARTY BENEFICIARY

CONTRACT:

Notwithstanding any other provision of this Agreement, the parties do not in any way intend that any person shall acquire any rights as a third party beneficiary under this Agreement.

25. TERMINATION FOR INSOLVENCY, DEFAULT, GRATUITIES,

AND/OR IMPROPER CONSIDERATIONS, AND CONVENIENCE:

A. Termination for Insolvency: County may terminate this Agreement immediately for default in the event of the occurrence of any of the following:

(1) Insolvency of Contractor. Contractor shall be deemed to be insolvent if it has ceased to pay its debts at least sixty (60) calendar days in the ordinary course of business or cannot pay its debts as they become due, whether Contractor has committed an act of bankruptcy or not, and whether Contractor is insolvent within the meaning of the federal Bankruptcy Law or not;

(2) The filing of a voluntary or involuntary petition under the federal Bankruptcy Law;

(3) The appointment of a Receiver or Trustee for Contractor;

(4) The execution by Contractor of an assignment for the benefit of creditors.

The rights and remedies of County provided in this Paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

B. Termination For Default: County may, by written notice of default to Contractor, terminate this Agreement immediately in any one of the following circumstances:

(1) If, as determined in the sole judgment of County, Contractor fails to perform any services within the times specified in this Agreement or any extension thereof as County may authorize in writing; or

(2) If, as determined in the sole judgment of County, Contractor fails to perform and/or comply with any of the other provisions of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two (2) circumstances, does not cure such failure within a period of five (5) calendar days (or such longer period as County may authorize in writing) after receipt of notice from County specifying such failure.

In the event that County terminates this Agreement as provided hereinabove, County may procure, upon such terms and in such manner as County may deem appropriate, services similar to those so terminated, and Contractor shall be liable to County for any reasonable excess costs incurred by County for such similar services.

The rights and remedies of County provided in this Paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

C. Termination For Gratuities and/or Improper Consideration:
County may, by written notice to Contractor, immediately terminate Contractor's right to proceed under this Agreement, if it is found that gratuities or consideration in any form, were offered or given by Contractor, either directly or through an intermediary, to any County officer, employee, or agent, with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment, or extension of the Agreement, or making of any determinations with respect to the Contractor's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could in the event of default by Contractor.

Contractor shall immediately report any attempt by a County officer, employee, or agent, to solicit such improper gratuity or consideration. The report shall be made either to the County manager charged with the

supervision of the employee or agent, or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

(Among other items, such improper gratuities and considerations may take the form of cash, discounts, services, the provision of travel or entertainment, or other tangible gifts.)

D. Termination For Convenience: The performance of services under this Agreement may be terminated, with or without cause, in whole or in part, from time to time when such action is deemed by County to be in its best interest. Termination of services hereunder shall be effected by delivery to Contractor of a thirty (30) calendar day advance Notice of Termination specifying the extent to which performance of services under this Agreement is terminated and the date upon which such termination becomes effective.

After receipt of a Notice of Termination and except as otherwise directed by County, Contractor shall:

(1) Stop services under this Agreement on the date and to the extent specified in such Notice of Termination; and

(2) Complete performance of such part of the services as shall not have been terminated by such Notice of Termination.

Further, after receipt of a Notice of Termination, Contractor shall submit to County, in the form and with the certifications as may be prescribed by County, its termination claim and invoice. Such claim and

invoice shall be submitted promptly, but not later than sixty (60) calendar days from the effective date of termination. Upon failure of Contractor to submit its termination claim and invoice within the time allowed, County may determine on the basis of information available to County, the amount, if any, due to Contractor in respect to the termination, and such determination shall be final. After such determination is made, County shall pay Contractor the amount so determined.

Contractor for a period of five (5) years after final settlement under this Agreement, in accordance with Paragraph 10, Records and Audits, herein, retain and make available all its books, documents, records, or other evidence, bearing on the costs and expenses of Contractor under this Agreement in respect to the termination of services hereunder.

26. PROHIBITION AGAINST PERFORMANCE OF SERVICES WHILE UNDER THE INFLUENCE:

Contractor shall ensure that no employee or physician performs services while under the influence of any alcoholic beverage, medication, narcotic, or other substance that might impair his/her physical or mental performance.

27. NOTICE OF DELAYS:

Except as otherwise provided under this Agreement, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party

shall, within two (2) working days, give notice thereof, including all relevant information with respect thereto, to the other party.

28. AUTHORIZATION WARRANTY:

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

29. WAIVER:

No waiver of any breach of any provision of this Agreement by County shall constitute a waiver of any other breach of such provision. Failure of County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and in addition to any other remedies in law or equity.

30. SEVERABILITY:

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

31. GOVERNING LAWS AND JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with and governed by the laws of the State of California.

Contractor hereby agrees to submit to the jurisdiction of the courts of the State of California. The exclusive venue of any action (other than an appeal or an enforcement of a judgment) brought by Contractor, on Contractor's behalf, or on the behalf of any subcontractor which arises from this Agreement or is concerning or connected with services performed pursuant to this Agreement, shall be deemed to be in the courts of the State of California located in Los Angeles County, California.

32. SOLICITATION OF BIDS OR PROPOSALS:

Contractor acknowledges that County, prior to expiration or earlier termination of this Agreement, may exercise its right to invite bids or request proposals for the continued provision of the services delivered or contemplated under this Agreement. County and its DPH shall make the determination to re-solicit bids or request proposals in accordance with applicable County and DPH policies.

Contractor acknowledges that County may enter into a contract for the future provision of services, based upon the bids or proposals received, with a provider or providers other than Contractor. Further, Contractor acknowledges that it obtains no greater right to be selected

through any future invitation for bids or request for proposals by virtue of its present status as Contractor.

33. CONTRACTOR PERFORMANCE DURING CIVIL UNREST OR DISASTER:

Contractor recognizes that County provides essential services to the residents of the communities they serve, and that these services are of particular importance at the time of a riot, insurrection, civil unrest, natural disaster, or similar event. Notwithstanding any other provision of this Agreement, full performance by Contractor during any riot, insurrection, civil unrest, natural disaster, or similar event is not excused if such performance remains physically possible. Failure to comply with this requirement shall be considered a material breach by Contractor for which Director may suspend or County may immediately terminate this Agreement.

34. COUNTY'S QUALITY ASSURANCE PLAN:

County or its agent will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all contract terms and performance standards. Contractor deficiencies which County determines are severe or continuing and that may place performance of this Agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action

measures taken by County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this Agreement or impose other penalties as specified in this Agreement.

The County maintains databases that track/monitor contractor performance history. Information entered into such databases maybe used for a variety of purposes, including determining whether the County will exercise a contract term extension option.

35. COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM:

A. CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through County contracts are in compliance with their court ordered child, family, and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Agreement to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the federal Social Security Act (42 U.S.C.

section 653a) and California Unemployment Insurance Code section 1088.55, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department ("CSSD") Notices of Wage and Earnings Assignment for Child, Family, or Spousal Support, pursuant to Code of Civil Procedure section 706.031 and Family Code section 5246(b).

B. FAILURE TO COMPLY WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM: Failure of Contractor to maintain compliance with the requirements set forth in the CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM Paragraph immediately above, shall constitute a default by Contractor under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure to cure such default within ninety (90) calendar days of written notice shall be grounds upon which County may terminate this contract pursuant to the Termination for Default Paragraph of this Agreement and pursue debarment of Contractor, pursuant to County Code Chapter 2.202.

36. CONTRACTOR'S EXCLUSION FROM PARTICIPATION IN A FEDERALLY FUNDED PROGRAM:

Contractor hereby warrants that neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the federal government, directly or

indirectly, in whole or in part, and that Contractor will notify Director within thirty (30) calendar days in writing of: (1) any event that would require Contractor or a staff member's mandatory exclusion from participation in a federally funded health care program; and (2) any exclusionary action taken by any agency of the federal government against Contractor or one or more staff members barring it or the staff members from participation in a federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

Contractor shall indemnify and hold County harmless against any and all loss or damage County may suffer arising from any federal exclusion of Contractor or its staff members from such participation in a federally funded health care program.

Failure by Contractor to meet the requirements of this Paragraph shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

37. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT:

Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notices shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

38. CONTRACTOR RESPONSIBILITY AND DEBARMENT:

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

B. Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if County acquires information concerning the performance of Contractor under this Agreement, or other contracts, which indicates that Contractor is not responsible, County may or otherwise in addition to other remedies provided under this Agreement, debar Contractor from bidding or proposing on, or being awarded and/or performing work on, County contracts for a specified period of time, which generally will not exceed five (5) years, but may exceed five (5) years or be permanent if warranted by circumstances, and terminate this Agreement and any or all existing contracts Contractor may have with County.

C. County may debar Contractor if County's Board of Supervisors finds, in its discretion, that Contractor has done any of the following: (1) violated any term of this Agreement or other contract with County, or a non-profit corporation created by County, (2) committed any act or omission which negatively reflects on Contractor's quality, fitness, or capacity to perform a contract with County or any public entity, or a non-

profit corporation created by County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against County or any other public entity.

D. If there is evidence that Contractor may be subject to debarment, Director will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before County's Contractor Hearing Board.

E. County's Contractor Hearing Board will conduct a hearing where evidence on proposed debarment is presented. Contractor or Contractor's representative, or both, shall be given an opportunity to submit evidence at that hearing. After the hearing, County's Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether Contractor should be debarred, and if so, the appropriate length of time of the debarment. Contractor and Director shall be provided an opportunity to object to the proposed decision prior to its presentation to County's Board of Supervisors.

F. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of County's Contractor Hearing Board shall be presented to County's Board of Supervisors. County's Board of Supervisors shall

have the right at its sole discretion to modify, deny, or adopt the proposed decision and recommendation of County's Contractor Hearing Board.

G. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed, (2) a bona fide change in ownership or management, (3) material, or (4) any other reason that is in the best interest of County.

H. County's Contractor hearing Board will consider a request for review of a debarment determination only where (1) Contractor has been debarred for a period longer than five (5) years, (2) the debarment has been in effect for at least five (5) years, and (3) the request is in writing, states one or more of the grounds for reduction of the debarment, and includes supporting documentation. Upon receiving as appropriate request, County's Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, County's Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This

hearing shall be conducted and the request for review decided by County's Contractor Hearing Board pursuant to the same procedures as for a debarment hearing. County's Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. County's Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the County's Contractor Hearing Board.

I. These terms shall also apply to any subcontractors/consultants of County contractors.

39. DEFAULTED PROPERTY TAX REDUCTION PROGRAM

A. CONTRACTOR'S WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM:

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

Unless Contractor qualifies for an exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now

in compliance, and during the term of this agreement will maintain compliance, with Los Angeles County Code Chapter 2.206.

B. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY

TAX REDUCTION PROGRAM: Failure of Contractor to maintain compliance with the requirements set forth in the "CONTRACTOR'S WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM" paragraph immediately above, shall constitute default under this agreement. Without limiting the rights and remedies available to County under any other provision of this agreement, failure of Contractor to cure such default within ten (10) calendar days of notice shall be grounds upon which County may terminate this agreement and/or pursue debarment of Contractor, pursuant to County Code Chapter 2.206.

40. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS (45 C.F.R. PART 76):

Contractor hereby acknowledges that the County is prohibited from contracting with and making sub-awards to parties that are suspended, debarred, ineligible or excluded from securing federally funded contracts. By executing this Agreement, Contractor certifies that neither it, nor any of its owners, officers, partners, directors or principals is currently

suspended, debarred, ineligible, or excluded from securing federally funded contracts. Further, by executing this Agreement, Contractor certifies that, to its knowledge, none of its subcontractors, at any tier, or any owner, officer, partner director, or other principal of any subcontractor is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Contractor shall immediately notify County in writing, during the term of this Agreement, should it or any of its subcontractors or any principals of either being suspended, debarred, ineligible, or excluded from securing federally funded contracts. Failure of Contractor to comply with this provision shall constitute a material breach of this Agreement upon which the County may immediately terminate or suspend this Agreement.

41. RULES AND REGULATIONS:

During the time that Contractor's personnel are at County Facilities such persons shall be subject to the rules and regulations of such County Facility. It is the responsibility of Contractor to acquaint persons who are to provide services hereunder with such rules and regulations. Contractor shall immediately and permanently withdraw any of its personnel from the provision of services hereunder upon receipt of oral or written notice from Director, that (1) such person has violated said rules or regulations, or (2) such person's actions, while on County premises, indicate that such person may do harm to County patients, staff, or other individuals.

42. COVENANT AGAINST CONTINGENT FEES:

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

B. For breach or violation of this warranty, County shall have the right to terminate this Agreement and, in its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

43. RECYCLED CONTENT BOND PAPER:

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at County landfills, Contractor agrees to use recycled-content bond paper to the maximum extent possible in connection with services to be performed by Contractor under this Agreement.

44. COMPLIANCE WITH THE COUNTY'S JURY SERVICE

PROGRAM:

This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as

codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

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

B. For purposes of this Subparagraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or (2) Contractor has a long-standing practice

that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall also be subject to the provisions of this subparagraph. The provisions of this subparagraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

C. If Contractor is not required to comply with the Jury Service Program when the Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Jury Service Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that Contractor demonstrate to the County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.

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

45. SAFELY SURRENDERED BABY LAW:

Contractor shall notify and provide to each of its officers, employees, and agents, and shall require that each of Contractor's subcontractors providing services under this Agreement also notify and provide to each of its officers, employees, and agents, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. County's fact sheet is available on the Internet at www.babysafela.org for printing and review purposes. Further, Contractor understands that it is County's policy to encourage Contractor and all of its subcontractors, providing services under this Agreement, if any, to voluntarily post County's "Safely Surrendered Baby Law" poster in a prominent position at their place of business. County's Department of Children and Family Services will supply Contractor with the poster to be used.

46. CONTRACTOR'S CHARITABLE ACTIVITIES COMPLIANCE:

The Supervision of Trustees and Fundraisers for Charitable Purposes Act regulates entities receiving or raising charitable

contributions. The "Nonprofit Integrity Act of 2004" (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. The County seeks to ensure that all County contractors which receive or raise charitable contributions comply with California law in order to protect the County and its taxpayers. A Contractor which receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination or debarment proceedings or both. (County Code Chapter 2.202).

Rev. 6.3.10 – approved by Counsel.

Attachment B

Syndromic Surveillance Software

Between

City of Los Angeles Fire Department

And

FirstWatch Solutions, Inc.

PROFESSIONAL SERVICES AGREEMENT

Contractor: FirstWatch

Title: Syndromic Surveillance Software

Said Agreement is Number _____ of City Contracts

TABLE OF CONTENTS

<u>Section Number and Table</u>	<u>Page</u>
<p>I <u>INTRODUCTION</u></p>	
§101 Parties to the Agreement	3
§102 Representatives of the Parties and Service of Notices	3
§103 Independent Contractor	4
§104 Conditions Precedent to Execution of this Agreement	4
<p>II <u>TERM AND SERVICES TO BE PROVIDED</u></p>	
§201 Time of Performance	5
§202 Services to be Provided by Contractor	5
<p>III <u>PAYMENT</u></p>	
§301 Compensation and Method of Payment	6
<p>IV <u>STANDARD PROVISIONS</u></p>	
§401 Construction of Provisions and Titles Herein	7
§402 Applicable Law, Interpretation and Enforcement	7
§403 Integrated Agreement	7
§404 Excusable Delays	7
§405 Breach	8
§406 Prohibition Against Assignment or Delegation	8
§407 Permits	8
§408 Non-Discrimination and Affirmative Action	8
§409 Claims for Labor and Materials	9
§410 Los Angeles City Business Tax Registration Certificate	9

TABLE OF CONTENTS

<u>Section Number and Table</u>	<u>Page</u>
§411 Bonds	9
§412 Indemnification	9
§413 Insurance	10
§414 Conflict of Interest	11
§415 Compliance with Statutes and Regulations	13
§416 Federal, State, and Local Taxes	19
§417 Federally Funded Projects, Inventions, Patents and Copyrights	20
§418 Living Wage Ordinance (Not applicable to this Agreement)	21
§419 Earned Income Tax Credit	23
§420 Equal Benefits Ordinance	23
§421 Contractor Responsibility Ordinance	24
§422 Slavery Disclosure Ordinance	24
§423 Restriction on Disclosures	25
§424 Child Support Assignment Orders	25

V

DEFAULTS, SUSPENSION, TERMINATION, AND AMENDMENTS

§501 Defaults	26
§502 Suspension	26
§503 Termination	27
§504 Notices of Suspension and Termination	27
§505 Amendments	28

VI

ENTIRE AGREEMENT

§601 Complete Agreement	28
§602 Number of Pages and Attachments	28
Execution (Signature) Page	29

Exhibits

- Exhibit A Indemnification and Insurance Requirements
- Exhibit B Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions
- Exhibit C Certification Regarding Lobbying
- Exhibit D Project Services
- Exhibit D-1 FW Software/Hardware Requirements
- Exhibit D-2 FirstWatch Solutions, Inc. System Maintenance Agreement
- Exhibit D-2-A FirstWatch ® Maintenance Services
- Exhibit D-3 Pricing and Payment Schedule
- Exhibit D-4 Business Associate Agreement (HIPAA)
- Exhibit E Grant Assurances

AGREEMENT NUMBER _____ OF CITY CONTRACTS
BETWEEN
THE CITY OF LOS ANGELES
AND

THIS AGREEMENT is made and entered into by and between the City of Los Angeles, a municipal corporation ("City"), acting through the Los Angeles City Fire Department ("LAFD") and FirstWatch Solutions, Inc., a California Corporation ("Contractor").

W I T N E S S E T H

WHEREAS, pursuant to the provisions of the Public Health and Social Security Emergency Funds Act (Section 319 of the Public Health Services Act, 42 U.S.C. 247d), the United States Department of Health and Human Services ("Grantor") awarded a grant (Grant) to Los Angeles County ("County") for the distribution of funds to healthcare entities and emergency medical service providers, in accordance with the Health Resources and Services Administration National Bioterrorism Hospital Preparedness Program; and

WHEREAS, LAFD provides emergency medical services within the County; and

WHEREAS, pursuant to a separate agreement between the City and the County, the County distributed, or will distribute, Grant funds to City to license software ("Software") from a vendor that will allow real-time information to be shared by key personnel from LAFD and the County's Acute Communicable Disease Control Program, Bioterrorism Epidemiology and Surveillance Section; and

WHEREAS, the City and the Contractor seek to execute a Software License Agreement, wherein the Contractor will license to the City said Software; and

WHEREAS, the Contractor provided the like technological services to the City from September 20, 2007 through August 31, 2012 as authorized by the City Council and the Mayor (refer to Council File Number 07-2155 dated August 10, 2007) under Agreement No. C-112458; and

WHEREAS, the City and the Contractor are desirous of executing this Agreement as authorized by the City Council and the Mayor (refer to **Council File No and Date TBD**) for the term of September 1, 2012 through June 30, 2013, unless otherwise amended to extend the term, subject to funding by LA County; and

WHEREAS, the services to be provided herein are of a professional, expert, temporary, and occasional nature; and

WHEREAS, pursuant to Los Angeles City Charter Section 1022, the City Council or designee has determined that the work can be performed more economically or feasibly by independent contractors than by City employees; and

NOW, THEREFORE, the City and the Contractor agree as follows:

I.
INTRODUCTION

§101. Parties to the Agreement

The parties to this Agreement are:

- A. The City of Los Angeles, a municipal corporation, having its principal office at 200 North Main Street, Los Angeles, California 90012.
- B. The Contractor, known as FirstWatch Solutions, Inc., a California Corporation, having its principal office at 322 Encinitas Boulevard, Suite #100, Encinitas, California 92024.

§102. Representatives of the Parties and Service of Notices

- A. The representatives of the respective parties who are authorized to administer this Agreement and to whom formal notices, demands and communications shall be given are as follows:

- 1. The representative of the City shall be, unless otherwise stated in the Agreement:

Brian L. Cummings, Fire Chief
Los Angeles Fire Department
200 N. Main Street, Room 1800
Los Angeles, CA 90012

With copies to:
Kurt Sato, Director of Systems
Management Information Systems Division
Los Angeles Fire Department
200 N. Main Street, Room 1680
Los Angeles, CA 90012

- 2. The representative of the Contractor shall be:

Todd Stout, President
FirstWatch Solutions, Inc.
322 Encinitas Boulevard, Suite #100
Encinitas, CA 92024

- B. Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by

registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.

- C. If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice shall be given, in accord with this section, within five (5) working days of said change.

§103. Independent Contractor

The Contractor is acting hereunder as an independent contractor and not as an agent or employee of the City. No employee of the Contractor has been, is, or shall be an employee of the City by virtue of this Agreement, and the Contractor shall so inform each employee organization and each employee who is hired or retained under this Agreement. Contractor shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the City.

§104. Conditions Precedent to Execution of This Agreement

Contractor shall provide copies of the following documents to the City:

- A. Proof of insurance as required by the City in accordance with Section 413 of this Agreement and attached hereto as **Exhibit A** and made a part hereof.
- B. Certification Regarding Ineligibility, Suspension and Debarment as required by Executive Order 12549 in accordance with Section §415.A.12 of this Agreement and attached hereto as **Exhibit B** and made a part hereof.
- C. Certification and Disclosure Regarding Lobbying in accordance with Section §415.A.4 of this Agreement and attached hereto as **Exhibit C** and made a part hereof. Contractor shall also file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially effects the accuracy of the information contained in any Disclosure Form previously filed by Contractor
- D. A Certification of Compliance With Equal Benefits Ordinance/Reasonable Measures Application for Equal Benefits Ordinance in accordance with Section 420 of this Agreement.

II.
TERM AND SERVICES TO BE PROVIDED

§201. Time of Performance

The term of this Agreement shall commence on September 1, 2012 and end June 30, 2013, unless amended to extend the term, and to include any additional period of time as is required to complete any necessary close-out activities. Said term is subject to the provisions herein. Performance shall not commence until the Contractor has obtained the City's approval of the insurance required in §413 herein. To the extent that services have been provided by the Contractor prior to the execution of this agreement, and where those services are consistent with the terms and conditions of this agreement, said services shall be covered by this agreement and full payment rendered.

§202. Services to be Provided by the Contractor

The Contractor shall provide software licensing and support services supported by the Project Services as detailed in **Exhibit D**, and the collective documentation that comprises **Exhibits D-1 through D-4**. All work related to the services support is subject to prior City approval. Failure to receive approval may result in withholding compensation pursuant to §301.

Contractor shall capture dispatch data from LAFD's 9-1-1 dispatch data repository via a secure virtual private network (VPN) to VPN or Secure Sockets Layer (SSL) encrypted connection. The data captured by the Contractor will be stored in a secured database inside its firewall. The data will be accessible to authorized LAFD and County Health Department employees through a SSL connection similar to on-line banking transactions.

The data will include: date and time of call, problem/nature of call, call latitude/longitude, zip code, call disposition, incident city, and incident type and other fields as agreed to by both parties. Patient information, such as names, shall not be included. LAFD and County Health Department shall define forty (40) triggers or filters that will limit and focus the types of incidents tracked, for example, flu-like symptoms.

The data will be displayed on maps and charts showing geographic distributions of occurrences within the City's geographic boundaries. Only authorized LAFD and County Health Department employees, and others authorized by the City, will have access to the charts and maps.

City shall provide hardware and software as detailed in **Exhibit D-1**.

City and Contractor shall execute a First Watch Solutions, Inc. System Maintenance Agreement attached hereto as **Exhibit D-2**.

III. PAYMENT

§301. Compensation and Method of Payment

- A. The City shall pay to the Contractor as compensation for complete and satisfactory performance of the terms of this Agreement, an amount not to exceed **sixty-seventy thousand six hundred seventeen dollars (\$67,617)**. The foregoing rate represents the total compensation to be paid by City to Contractor for services to be performed as designated by this Agreement. Contractor shall be paid according to the Payment Schedule attached hereto as **Exhibit D-3**.
- B. Each invoice shall be submitted on the Contractor's letterhead; include the name, hours, rate of pay for all personnel to be paid; include evidence of the completed project; include supporting documentation for all approved purchases of equipment or supplies and shall be accompanied by a statement detailing the work completed for the month. All expenses for travel must receive prior approval from the City and must be documented and will be paid only in conformance with City policies and procedures. Funds shall not be released until the City has approved the work received and satisfied with the documentation included in the invoice.
- C. Notwithstanding Payment Schedule, **Exhibit D-3**, ten percent (10%) of the total compensation shall be withheld by the City until the Contractor has completed the requirements of this Agreement.
- D. It is understood that the City makes no commitment to fund this Agreement beyond the terms set herein. However, should the City desire to amend this Agreement to provide for the maintenance of the Software, the Contractor shall provide maintenance of the Software to the City at rates delineated in **Exhibit D-3**.
- E. It is understood that the Contractor will not have access to Protected Health Information (PHI) that is under the control of the City. However, there exists the possibility that there may be times the Contractor will be exposed or provided PHI data in the course of system maintenance. To the extent that the Contractor does have access to PHI, the Contractor agrees to abide by Section 423 of this agreement and the terms and conditions set forth in the Business Associate Agreement between the City and the Contractor, which is incorporated herein as **Exhibit D-4**.
- F. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of the Contractor. The City will not compensate the contractor for

any costs incurred for invoice preparation. The City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. The City reserves the right to request additional supporting documentation to substantiate costs at any time. All invoices must be signed by an officer of the Contractor under penalty of perjury that the information submitted is true and correct.

G. Funding for all periods of this contract is subject to the continuing availability of Grant funds for this program to the City. The Contract may be terminated immediately upon written notice to the Contractor of a loss or reduction of Grant funds.

H. Contractor shall warrant that any applicable discounts have been included in the costs to the City.

***** [STOP] *****

IV. STANDARD PROVISIONS

§401. Construction of Provisions and Titles Herein

All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against the City or the Contractor. The word "Contractor" herein and in any amendments hereto includes the party or parties identified in this Agreement. The singular shall include the plural. If there is more than one Contractor as identified herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

§402. Applicable Law, Interpretation and Enforcement

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City. This Agreement shall be enforced and interpreted under the laws of the State of California and the City.

If any part, term or provision of this Agreement shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Agreement, the validity of the remaining portions of provisions shall not be affected thereby.

§403. Integrated Agreement

This Agreement sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous agreements or understandings, whether written or oral, relating thereto. This Agreement may be amended only as provided for herein.

§404. Excusable Delays

In the event that performance on the part of any party hereto shall be delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder shall include, but not be limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes, freight embargoes or delays in transportation; to the extent that they are not caused by the party's willful or negligent acts or omissions and to the extent that they are beyond the party's reasonable control.

§405. Breach

Except for excusable delays, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

§406. Prohibition Against Assignment or Delegation

The Contractor may not, unless it has first obtained the written permission of the City:

- A. Assign or otherwise alienate any of its rights hereunder, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties hereunder.

§407. Permits

The Contractor and its officers, agents and employees shall obtain and maintain all permits and licenses necessary for the Contractor's performance hereunder and shall pay any fees required therefore. The Contractor further certifies to immediately notify the City of any suspension, termination, lapses, non-renewals or restrictions of licenses, certificates, or other documents.

§408. Nondiscrimination and Affirmative Action

The Contractor shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the City. In performing this Agreement, the Contractor shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, mental disability, marital status, domestic partner status or medical condition. The Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

The Contractor shall comply with the provisions of the Los Angeles Administrative Code Sections 10.8 through 10.13, to the extent applicable hereto. The Contractor shall also comply with all rules, regulations, and policies of the City's Board of Public Works, Office of Contract Compliance relating to nondiscrimination and affirmative action, including the filing of all forms required by City.

Any subcontract entered into by the Contractor relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

§409. Claims for Labor and Materials

The Contractor shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Agreement so as to prevent any lien or other claim under any provision of law from arising against any City property (including reports, documents, and other tangible matter produced by the Contractor hereunder), against the Contractor's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

§410. Los Angeles City Business Tax Registration Certificate

The Contractor represents that it has obtained and presently holds the Business Tax Registration Certificate(s) or exemption required by the City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 et seq., of the Los Angeles Municipal Code). For the term covered by this Agreement, the Contractor shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended. The cost of the Certificate and the tax incurred pursuant to Contractor's performance of this contract will be reimbursed to Contractor.

§411. Bonds

Duplicate copies of all bonds which may be required hereunder shall conform to City requirements established by charter, ordinance or policy and shall be filed with the

Office of the City Attorney for its review in accordance with Los Angeles Administrative Code Sections 11.47 through 11.56.

§412. Indemnification

Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, CONTRACTOR undertakes and agrees to defend, indemnify and hold harmless CITY and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including CONTRACTOR'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by the CONTRACTOR or its SUBCONTRACTORS of any tier. The provisions of this paragraph survive expiration or termination of this Contract.

§413. Insurance

A. General Conditions

During the term of this Contract and without limiting CONTRACTOR'S indemnification of the CITY, CONTRACTOR shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by CONTRACTOR but not less than the amounts and types listed on the Insurance Requirements Sheet (Form Gen 146/IR in Exhibit A hereto, covering its operations hereunder. Such insurance shall conform to CITY requirements established by Charter, ordinance or policy, shall comply with the instructions set forth on Form General 133 and with the conditions set forth on the applicable City Special Endorsement form(s), copies of which are included in Exhibit A, and shall otherwise be in a form acceptable to the City Attorney. Specifically, such insurance shall: 1) protect CITY as an Insured or an Additional Interest Party, or a Loss Payee As Its Interests May Appear, respectively, when such status is appropriate and available depending on the nature of the applicable coverages; 2) provide CITY at least thirty (30) days advance written notice of cancellation, material reduction in coverage or reduction in limits when such change is made at the option of the insurer; and 3) be primary with respect to CITY'S insurance program. Except when CITY is a named insured, CONTRACTOR'S insurance is not expected to respond to claims which may arise from the acts or omissions of the CITY.

B. Modification of Coverage

CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR/CONSULTANT ninety (90) days advance written notice of such change. If such change should result in substantial additional cost to the CONTRACTOR/CONSULTANT, CITY agrees to negotiate additional compensation proportional to the increased benefit to CITY.

C. Failure to Procure Insurance

All required insurance must be submitted and approved by the City Attorney prior to the inception of any operations or tenancy by CONTRACTOR/CONSULTANT. The required coverages and limits are subject to availability on the open market at reasonable cost as determined by CITY. Non-availability or non-affordability must be documented by a letter from CONTRACTOR'S/CONSULTANT'S insurance broker or agent indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each.

Within the foregoing constraints, CONTRACTOR'S/ CONSULTANT'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR/CONSULTANT.

D. Workers' Compensation

By signing this Contract, CONTRACTOR/CONSULTANT hereby certifies that it is aware of the provisions of Section 3700 et seq., of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Contract.

A Waiver of Subrogation in favor of CITY will be required when work is performed on CITY premises under hazardous conditions.

§414. Conflict of Interest

- A. The Contractor covenants that none of its directors, officers, employees, or agents shall participate in selecting, or administering any subcontract supported (in whole or in part) by Federal funds where such person is a director, officer, employee or agent of the subcontractor; or where the selection of subcontractors is or has the appearance of being motivated by a desire for personal gain for

themselves or others such as family business, etc.; or where such person knows or should have known that:

1. A member of such person's immediate family, or domestic partner or organization has a financial interest in the subcontract;
2. The subcontractor is someone with whom such person has or is negotiating any prospective employment; or
3. The participation of such person would be prohibited by the California Political Reform Act, California Government Code §87100 et seq. if such person were a public officer, because such person would have a "financial or other interest" in the subcontract.

B. Definitions:

1. The term "immediate family" includes but is not limited to domestic partner and/or those persons related by blood or marriage, such as husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law.
2. The term "financial or other interest" includes but is not limited to:
 - a. Any direct or indirect financial interest in the specific contract, including a commission or fee, a share of the proceeds, prospect of a promotion or of future employment, a profit, or any other form of financial reward.
 - b. Any of the following interests in the subcontractor ownership: partnership interest or other beneficial interest of five percent or more; ownership of five percent or more of the stock; employment in a managerial capacity; or membership on the board of directors or governing body.

C. No members of the Board of Directors may be employed by the Contractor if this Contractor is a corporation.

D. The Contractor further covenants that no officer, director, employee, or agent shall solicit or accept gratuities, favors, anything of monetary value from any actual or potential subcontractor, supplier, a party to a subagreement, (or persons who are otherwise in a position to benefit from the actions of any officer, employee, or agent).

- E. The Contractor shall not subcontract with a former director, officer, or employee within a one-year period following the termination of the relationship between said person and the Contractor.
- F. Prior to obtaining the City's approval of any subcontract, the Contractor shall disclose to the City any relationship, financial or otherwise, direct or indirect, of the Contractor or any of its officers, directors or employees or their immediate family with the proposed subcontractor and its officers, directors or employees.
- G. For further clarification of the meaning of any of the terms used herein, the parties agree that references shall be made to the guidelines, rules, and laws of the City of Los Angeles, State of California, and Federal regulations regarding conflict of interest.
- H. The Contractor warrants that it has not paid or given and will not pay or give to any third person any money or other consideration for obtaining this Agreement.
- I. The Contractor covenants that no member, officer or employee of Contractor shall have interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with this project during his/her tenure as such employee, member or officer or for one year thereafter.
- J. The Contractor shall incorporate the foregoing subsections of this Section into every agreement that it enters into in connection with this project and shall substitute the term "subcontractor" for the term "Contractor" and "sub-subcontractor" for "Subcontractor".

§415. Compliance with State and Federal Statutes and Regulations

Contractor understands that failure to comply with any of the following assurances may result in suspension, termination or reduction of grant funds, and repayment by Contractor to City of any unlawful expenditure.

A. Statutes and Regulations Applicable To All Grant Contracts

Contractor shall comply with all applicable requirements of state, federal, County and City of Los Angeles laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement. Contractor shall comply with state and federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

1. Office of Management and Budget (OMB) Circulars

Contractor shall comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); Common Rule, Subpart C for public agencies or OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations).

2. Single Audit Act

If Federal funds are used in the performance of this Agreement, Contractor shall adhere to the rules and regulations of the Single Audit Act, 31 USC Sec. 7501 et seq.; City Council action dated February 4, 1987 (C.F. No. 84-2259-S1); and any administrative regulation or field memos implementing the Act.

3. Americans with Disabilities Act

Contractor hereby certifies that it will comply with the Americans with Disabilities Act 42, USC §§ 12101 et seq., and its implementing regulations. Contractor will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. Contractor will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by the Contractor, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

4. Political and Sectarian Activity Prohibited

Contractor shall comply with the Anti-Lobbying Act (18 U.S.C. § 1913). None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Neither shall any funds provided under this agreement be used for any purpose designed to support or defeat any pending legislation or administrative regulation. None of the funds provided pursuant to this Agreement shall be used for any sectarian purpose or to support or benefit any sectarian activity.

If this Agreement provides for more than \$100,000.00 in grant funds or more than \$150,000 in loan funds, Contractor shall submit to the City a Certification Regarding Lobbying and a Disclosure Form, if required, in accordance with 31 USC 1352. A copy of the Certificate is attached hereto as Exhibit C. No funds will be released to Contractor until the Certification is filed.

Contractor shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of any of the information contained in any Disclosure Form previously filed by Contractor. Contractor shall require that the language of this Certification be included in the award documents for all sub-awards at all tiers and that all subcontractors shall certify and disclose accordingly.

5. Records Inspection

At any time during normal business hours and as often as the City, the U.S. Comptroller General and the Auditor General of the State of California may deem necessary, Contractor shall make available for examination all of its records with respect to all matters covered by this Agreement. The City, the U.S. Comptroller General and the Auditor General of the State of California shall have the authority to audit, examine and make excerpts or transcripts from records, including all Contractor's invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

Contractor agrees to provide any reports requested by the City regarding performance of the Agreement.

6. Records Maintenance

Records, in their original form, shall be maintained in accordance with requirements prescribed by the City with respect to all matters covered on file for all documents specified in this Agreement. Original forms are to be maintained on file for all documents specified in this agreement. Such records shall be retained for a period of five (5) years after termination of this Agreement and after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. The City may, at its discretion, take possession of, retain and audit said records. Records, in their original form pertaining to matters covered by this Agreement, shall at all times be retained within the County of San Diego unless authorization to remove them is granted in writing by the City.

7. Subcontracts and Procurement

Contractor shall comply with the federal and City standards in the award of any subcontracts. For purposes of this Agreement, subcontracts shall include but not be limited to purchase agreements, rental or lease agreements, third party agreements, consultant service contracts and construction subcontracts.

Contractor shall ensure that the terms of this Agreement with the City are incorporated into all Subcontractor Agreements. The Contractor shall submit all Subcontractor Agreements to the City for review prior to the release of any funds to the subcontractor. The Contractor shall withhold funds to any subcontractor agency that fails to comply with the terms and conditions of this Agreement and their respective Subcontractor Agreement.

8. Labor

Contractor shall comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed requirements for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System Personnel Administration (5 C.F.R. 900, Subpart F).

Contractor shall comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

Contractor shall comply with the Federal Fair Labor Standards Act (29 USC § 201) regarding wages and hours of employment.

None of the funds be used to promote or deter Union/labor organizing activities. CA Gov't Code Sec. 16645 et seq.

Hatch Act (5 USC §§1501-1508 and 7324-7328).

9. Civil Rights

Contractor shall comply with all Federal statutes relating to to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education

Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) The Age Discrimination act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; (j) the requirements of any other nondiscrimination statute(s) which may apply to the application; and (k) P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

10. Environmental

Contractor shall comply, or has already complied, with the requirements of Titles II and III of the Uniform relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

Contractor shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); (h) protection of endangered species

under the Endangered Species Act of 1973, as amended (P.L. 93205); and (i) Flood Disaster Protection Act of 1973 §102(a) (P.L. 93-234).

Contractor shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

Contractor shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

Contractor shall comply with the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) which restores and maintains the chemical, physical and biological integrity of the Nation's waters.

Contractor shall ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of this project are not listed in the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal Grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

By signing this Agreement, Contractor ensures that it is in compliance with the California Environmental Quality Act (CEQA), Public Resources Code §21000 et seq. and is not impacting the environment negatively.

Contractor shall comply with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).

11. Preservation

Contractor shall comply with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

12. Suspension and Debarment

Contractor shall comply with Federal Register, Volume 68, Number 228, regarding Suspension and Debarment, and Contractor shall submit a Certification Regarding Debarment required by Executive Order 12549 and any amendment thereto. Said Certification shall be submitted to the City concurrent with the execution of this Agreement and shall certify that neither Contractor nor its principals are presently debarred, suspended,

proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department head or agency. Contractor shall require that the language of this Certification be included in the award documents for all sub-award at all tiers and that all subcontractors shall certify accordingly.

13. Drug-Free Workplace

Contractor shall comply with the federal Drug-Free Workplace Act of 1988, 41 USC §701, 28 CFR Part 67; the California Drug-Free Workplace Act of 1990, CA Gov't Code §§ 8350-8357.

14. Miscellaneous

Laboratory Animal Welfare Act of 1966, as amended (P.L. 89-544, 7 USC §§2131 et. seq.

B. Statutes and Regulations Applicable To This Particular Grant

Contractor shall comply with all applicable requirements of state and federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this particular grant program. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to those listed in **Exhibit E**.

Contractor understands that failure to comply with any of these assurances may result in suspension, termination or reduction of funds, and repayment by Contractor to City of any unlawful expenditure.

§416. Federal, State and Local Taxes

Federal, State and local taxes shall be the responsibility of the Contractor as an independent Contractor and not as a City employee.

§417. Inventions, Patents and Copyrights

A. Inventions and Patents

1. Reporting Procedure for Inventions

If any custom software module or process developed specifically for the City under this Agreement produces any invention or discovery (Invention) including, without limitation, processes and business methods, the Contractor shall

promptly report the Invention to the City. The City shall then report the Invention to the Grantor.

2. Allocation of Patent Rights

Unless otherwise provided, the Grantor shall determine how the rights in the Invention, including rights under any patent issued thereon, will be allocated and administered. The determination shall be consistent with the Federal Acquisition Regulations System (System), which is based on 35 U.S.C. §§ 200 et seq.; 37 CFR Part 401; Presidential Memorandum on Government Patent Policy to the Heads of the Executive Departments and Agencies, dated 2/18/1983); and Executive Order 12591, 4/10/87, as amended by Executive Order 12618, 12/22/87, 52 FR 48661. Contractor hereby agrees to be bound by the System, and will contractually require its personnel to be bound by the System.

3. Right of City to Use Inventions

City shall have a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Invention developed under this Agreement.

B. Copyright Policies

1. Copyright Ownership

Unless otherwise provided by the terms of the Grant or of this Agreement, when copyrightable material is developed related to a custom software module or process developed specifically for the City under this Agreement (Material), the author or the City, at the City's discretion, may copyright the Material. Before copywriting any Material, the Contractor shall obtain written permission from the City.

2. Rights of City in Copyrighted Materials

If the City declines to copyright the Material, the City shall have a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Material developed under this Agreement.

3. Rights of Grantor in Copyrighted Materials

Pursuant to 28 CFR 66.34, 28 C.F.R. § 70.36 and 37 C.F.R. Part 401, the Grantor shall have a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government

purposes, any Material developed under this Agreement or any Copyright purchased under this Agreement.

C. Rights to Data

The Grantor and the City shall have unlimited rights or copyright license to any data first produced or delivered under this Agreement, pursuant to 48 CFR 27.401 and 48 USC 27.404(a),

If any project produced under this Agreement contains data not first produced under this Agreement, or data published with the notice of 17 U.S.C. Section 401 or 402, the Grantor shall have limited rights to such data pursuant to 48 CFR 27.404 (f) (2).

D. Obligations Binding on Subcontractors

Contractor shall require all subcontractors to comply with the obligations of this section by incorporating the terms herein into all subcontracts.

§418. Living Wage Ordinance Service Contractor Worker Retention and Living Wage Policy

A. Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 et seq. of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 et seq., of the Los Angeles Administrative Code, as amended from time to time. The Ordinances require the following:

1. CONTRACTOR assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO.
2. CONTRACTOR further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. CONTRACTOR shall require each of its Subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. CONTRACTOR shall deliver the executed pledges from each such Subcontractor to the City within ninety (90) days of the execution of the Subcontract. CONTRACTOR'S delivery of executed pledges from each such Subcontractor shall fully discharge the obligation of the CONTRACTOR to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.

3. The CONTRACTOR, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. CONTRACTOR shall post the Notice of Prohibition Against Retaliation provided by the City.
 4. Any Subcontract entered into by the CONTRACTOR relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of LWO and the SCWRO, and shall incorporate the "Living Wage Ordinance and Service Contractor Worker Retention Ordinance" language.
 5. CONTRACTOR shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.
- B. Under the provisions of Section 10.36.3(c) and Section 10.37.5(c) of the Los Angeles Administrative Code, the City shall have the authority, under appropriate circumstances, to terminate this contract and otherwise pursue legal remedies that may be available if the City determines that the subject CONTRACTOR has violated provisions of the LWO and the SCWRO.
- C. Where under the LWO Section 10.37.6(d), the designated administrative agency has determined (a) that the CONTRACTOR is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the awarding authority in such circumstances may impound monies otherwise due the CONTRACTOR in accordance with the following procedures. Impoundment shall mean that from monies due the CONTRACTOR, the awarding authority may deduct the amount determined to be due and owing by the CONTRACTOR to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures there described through final and binding arbitration. Whether the CONTRACTOR is to continue work following an impoundment shall remain in the unfettered discretion of the awarding authority. The CONTRACTOR may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

§419 Earned Income Tax Credit

This contract is subject to the provisions of Section 10.37.4 of the Los Angeles Administrative Code, requiring employers to inform employees making less than Twelve

Dollars (\$12.00) per hour of their possible right to the federal Earned Income Tax Credit (EITC). Employers must further make available to employees the forms required to secure advance EITC payments from employers.

§420. Equal Benefits Ordinance

Unless otherwise exempted in accordance with the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, this Contract is subject to the provisions of the EBO as amended from time to time.

- A. During the performance of the Contract, the Contractor/Consultant certifies and represents that the Contractor/Consultant will comply with the EBO. The Contractor/Consultant agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the performance of a Contract with the City of Los Angeles, the Contractor/Consultant will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administrator, Office of Contract Compliance Section at (213) 847-6480.”

- B. The failure of the Contractor/Consultant to comply with the EBO will be deemed to be a material breach of the Contract by the Awarding Authority.
- C. If the Contractor/Consultant fails to comply with the EBO the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against the Contractor/Consultant in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.
- E. If the Office of Contract Compliance determines that a Contractor/Consultant has set up or used its Contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor/Consultant in actions taken pursuant to the provisions of the Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

§421. Contractor Responsibility Ordinance

Unless otherwise exempt in accordance with the provisions of the Ordinance, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of Article 14, Chapter 1 of Division 10 of the Los Angeles Administrative Code, which requires Contractor/Consultant to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect Contractor's/Consultant's fitness and ability to continue performing the contract. In accordance with the provisions of this Ordinance, by signing this Contract, Contractor/Consultant pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this contract, including but not limited to, laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees. The Contractor/Consultant further agrees to: (1) notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the Contractor/Consultant is not in compliance with all applicable federal, state and local laws in performance of this contract; (2) notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the Contractor/Consultant has violated the provisions of Section 10.40.3 (a) of the Ordinance; (3) ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and (4) ensure that its subcontractor(s), as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3 (a) of the Ordinance in performance of the subcontract.

§422. Slavery Disclosure Ordinance

Under the terms of this Agreement, this provision is inapplicable and is intentionally left blank.

§423. Restriction on Disclosures

Any reports, analysis, studies, drawings, information, or data generated as a result of this Agreement are to be considered as confidential. Such information shall not be made available to any individual, agency, or organization except as provided for in this Agreement or as provided by law.

The Contractor must maintain and store medical records in accordance with local State and Federal Rules and Regulations. The Contractor must maintain strict confidentiality of all medical records in accordance with all federal and state statutes and regulations relating to the confidentiality of patient's records and information, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Contractor must inform all its officers, employees, and agents providing services of these confidentiality provisions.

The CONTRACTOR must maintain strict confidentiality of all medical records in accordance with all federal and state statutes and regulations relating to the confidentiality of patient's records and information, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The CONTRACTOR must inform all its officers, employees, and agents providing services of these confidentiality provisions. City and Contractor shall execute the Business Associate Agreement attached hereto as Exhibit D-4. The CONTRACTOR agrees not to disclose any information or statistics that result from the examinations and that would otherwise not be considered confidential to any third party without the expressed written permission of the CITY."

§424 Child Support Assignment Orders

This Contract is subject to Section 10.10 of the Los Angeles Administrative Code, Child Support Assignment Orders Ordinance. Pursuant to this Ordinance, Contractor/Consultant certifies that it will (1) fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; (2) that the principal owner(s) of Contractor/Consultant are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230 et seq.; and (4) maintain such compliance throughout the term of this Contract. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of Contractor/Consultant to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Contractor/Consultant to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default by the Contractor/Consultant under the terms of this Contract, subjecting this Contract to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Contractor/Consultant by City. Any subcontract entered into by the Contractor/Consultant relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph and shall incorporate the provisions of the Child Support Assignment Orders Ordinance. Failure of the Contractor/Consultant to obtain compliance of its subcontractors shall constitute a default by the Contractor/Consultant under the terms of this contract, subjecting this Contract to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Contractor/Consultant by the City.

Contractor/Consultant shall comply with the Child Support Compliance Act of 1998 of the State of California Employment Development Department. Contractor/Consultant assures that to the best of its knowledge it is fully complying with the earnings assignment orders of all employees, and is providing the names of all new

employees to the New Hire Registry maintained by the Employment Development Department as set forth in subdivision (1) of the Public Contract Code 7110.

V.

DEFAULTS, SUSPENSION, TERMINATION, AND AMENDMENTS

§501. Defaults

Should the Contractor fail for any reason to comply with the contractual obligations of this Agreement within the time specified by this Agreement, the City reserves the right to:

- A. Reduce the total budget;
- B. Make any changes in the general scope of this Agreement;
- C. Suspend project operations in accordance with §502 of this Agreement; or
- D. Terminate the Agreement.

§502. Suspension

The City may suspend all or part of the project operations for failure by the Contractor to comply with the terms and conditions of this Agreement by giving written notice, which shall be effective upon receipt.

- A. Said notice shall set forth the specific conditions of non-compliance and the period provided for corrective action.
- B. Within five (5) working days the Contractor shall reply in writing setting forth the corrective actions which will be undertaken, subject to City approval in writing.
- C. Performance under this Agreement shall be automatically suspended without any notice from the City as of the date the Contractor is not fully insured in compliance with §413 (Insurance) herein. Performance shall not resume without the prior written approval of City.

§503. Termination

- A. Either party to this Agreement may terminate this Agreement or any part hereof upon giving the other party at least thirty (30) days written notice prior to the effective date of such termination, which date shall be specified in such notice.

- B. All property, documents, data, studies, reports and records purchased or prepared by the Contractor under this Agreement shall be disposed of according to City directives.
- C. In the event that the Contractor ceases to operate (i.e. dissolution of corporate status, declaration of bankruptcy, etc.) Contractor shall provide to the City copies of all records relating to this Agreement.
- D. Upon satisfactory completion of all termination activities, the City shall determine the total amount of compensation that shall be paid to the Contractor for any unreimbursed expenses reasonably and necessarily incurred in the satisfactory performance of this Agreement.
- E. The City may withhold any payments due to the Contractor until such time as the exact amount of any damages that may be due to the City from the Contractor is determined.
- F. The foregoing Subsection B, C, D, and E shall also apply to activities terminating upon the date specified in §201 or upon completion of the performance of this Agreement.

§504. Notices of Suspension or Termination

In the event that this Agreement is suspended or terminated, the Contractor shall immediately notify all employees and participants and shall notify in writing all other parties contracted with under the terms of Agreement within five (5) working days of such suspension or termination.

§505. Amendments

Any change in the terms of this Agreement, including changes in the services to be performed by the Contractor, and any increase or decrease in the amount of compensation which are agreed to by the City and the Contractor shall be incorporated into this Agreement by a written amendment properly executed and signed by the person authorized to bind the parties thereto.

The Contractor agrees to comply with all future City Directives, or any rules, amendments or requirements promulgated by the City affecting this Contract.

VI.
ENTIRE AGREEMENT

§601. Complete Agreement

This Agreement contains the full and complete Agreement between the two parties. No verbal agreement nor conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

§602. Number of Pages and Attachments

This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes fifty (54) pages and five (5) Exhibits which constitute the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the City of Los Angeles and the Contractor have caused this Agreement to be executed by their duly authorized representatives.

APPROVED AS TO FORM AND LEGALITY:
CARMEN A. TRUTANICH, City Attorney

For: THE CITY OF LOS ANGELES
BRIAN CUMMINGS, Fire Chief

By _____
Deputy/Assistant City Attorney

Date _____

ATTEST:
JUNE LAGMAY, City Clerk

For: FIRST WATCH SOLUTIONS, INC.
(Contractor's Corporate Seal or Notary)

By _____
Deputy City Clerk

By _____

Date _____

Print Name _____

Title _____

ATTEST:

By _____

Print Name _____

Title _____

City Business License Number _____

Internal Revenue Service ID Number _____

Council File/CAO File Number _____ Date of Approval _____

Said Agreement is Number _____ of City Contracts

INSURANCE REQUIREMENTS

Name:

Date:

Agreement/Reference: _____

Evidence of coverages checked off below which have as a minimum the limits shown must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits (“CSL”). Split limits may be substituted if the total per occurrence equals or exceeds the CSL amount.

	Limits
<input checked="" type="checkbox"/> Workers' Compensation (Statutory Limit)/Employer's Liability	\$1,000,000
<input type="checkbox"/> Waiver of Subrogation in Favor of City (If contractor has employees)	
<input checked="" type="checkbox"/> General Liability	\$1,000,000
<input checked="" type="checkbox"/> Premises and Operations	<input type="checkbox"/> Collapse & Underground
<input checked="" type="checkbox"/> Contractual Liability	<input checked="" type="checkbox"/> Products/Completed Operations
<input checked="" type="checkbox"/> Independent Contractors	<input type="checkbox"/> Fire Legal Liability
<input type="checkbox"/> Automobile Liability (if vehicle is used for this contract, other than commuting to/from work)	\$1,000,000
<input type="checkbox"/> Hired Automobiles	<input type="checkbox"/> Owned Automobiles
<input type="checkbox"/> Non-owned Automobiles	
<input type="checkbox"/> Professional Liability (Errors and Omissions)	\$ _____
Discovery Period 12 months after completion of work or from date of termination of the contract/agreement.	
<input type="checkbox"/> Property Insurance to cover value of structure (as determined by city or insurance company)	
<input type="checkbox"/> All Risk Coverage (90% replacement value)	\$ _____
<input type="checkbox"/> Boiler and Machinery	<input type="checkbox"/> Extended Coverage
<input type="checkbox"/> Debris Removal	<input type="checkbox"/> Flood \$ _____
<input type="checkbox"/> Earthquake \$ _____	
<input type="checkbox"/> Pollution Liability	\$ _____
<input type="checkbox"/> Fidelity Bond	<input type="checkbox"/> Surety Bond
	\$ _____

Notes

EXHIBIT A
INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker.)

PERSON TO CONTACT Direct all correspondence, questions, requests for additional forms, etc., to the contact person listed here or to the department that administers your contract, lease or permit:

NAME	
CITY AGENCY	
ADDRESS	
TEL	FAX

GENERAL INFORMATION

1. **Project ID** All submissions must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and dollar amounts** specified on the Insurance Requirements Sheet (Form Gen. 146) included in your CITY documents.

2. **When to submit** Normally, no work or occupancy may begin until a CITY Attorney insurance approval number has been obtained, so documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings but before construction commences.

3. **Availability of Insurance** Coverages and limits are subject to availability on the open market at reasonable cost as determined by the CITY. For requirements to be relaxed or waived, your broker or agent must document non-availability or non-affordability in a letter to the CITY. It must show a good faith effort to place the required insurance, must list the names of the insurance carriers contacted and show the declinations or cost indications received from each.

4. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed their financial statements.

ADMINISTRATIVE REQUIREMENTS

5. **California Licensee** All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a

coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

6. Aggregate Limits/Impairment If any of the required insurance coverages contain annual aggregate limits, you must give the CITY written notice of any pending claim or lawsuit which may diminish the aggregate within thirty (30) days of knowledge of same. You must take steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect CITY'S protection are allowed without CITY'S prior written consent.

7. Signature All submissions must bear the manual autograph in ink of a person with authority to bind coverage. Signatures which are rubber stamped, mechanically reproduced, initialed by others or photocopied are not acceptable.

POLICY CONDITIONS

8. Additional Insured/Loss Payee The CITY must be included as an additional insured in applicable liability policies to cover the CITY'S vicarious liability for the acts or omissions of the named insured. Such coverage is not expected to respond to the active negligence of the CITY. The CITY is to be named a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

9. Notice of Cancellation You agree contractually to maintain all required insurance in full force for the duration of your business with the CITY. By ordinance, all required insurance must provide at least 30 days' prior notice directly to the CITY by receipted delivery (certified mail, courier or in-person delivery) if your *insurance company* elects to cancel or reduce coverage prior to the policy expiration date. This also applies when the **scope of coverage** which affects the CITY'S interest is to be reduced or when the **dollar limits** of coverage are to be reduced for any reason except impairment of an aggregate limit due to prior claims. Submissions not meeting this requirement will be rejected.

10. Primary Coverage The coverage must be primary with respect to any insurance or self insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

11. Separation of Insureds (Severability of Interest) In **construction contracts**, the CITY must be able to retain its rights as a potential claimant as well as to be protected as an additional insured for vicarious liability to third party claimants except with respect to the insurance company's limits of liability.

PROCEDURES

12. **Acceptable Evidence and Approval** **CITY Special Endorsement** forms completed by your insurance company or its designee are the preferred form of evidence of insurance. (**Note:** The CITY forms are acceptable to the California Department of Insurance from *any* insurance carrier. They need not be re-filed by individual insurance companies.) Altered forms may not be accepted but the "Other Provisions" box on the CITY forms, may be used, as necessary, to provide pertinent information such as important exclusions, specific provisions or scheduled locations/equipment. Additional pages may be attached for this purpose, as well. If they are, make note of it in this box. An acceptable alternative to the Special Endorsement form is a **certified copy of full insurance policy** which contains a 30-day cancellation notice provision and additional-insured or loss-payee status, when appropriate, for the CITY. **Binders and Cover Notes** are also acceptable as interim evidence for up to 90 days. However, non-binding documents such as broker letters and **Certificates of Insurance are not acceptable as stand-alone evidence of coverage.** Certificates *are* acceptable for the following purposes: 1) supplemental information to accompany endorsements; renewals or extensions of coverage already on file with the CITY; 2) for the naming of third-party, additional insureds; 3) as an indication of compliance with statute, such as Workers' Compensation Law or the California Financial Responsibility Law for Automobile Liability, 4) as proof of coverage beyond CITY requirements or which does not directly relate to the CITY'S interests.

13. **Renewal** When an existing policy is timely renewed, submit a renewal endorsement or a manually-signed Certificate of Insurance. However, if your policy number changes or you use a different underwriting company (insurer) you must submit new evidence which meets the policy conditions listed in Sections 8 through 11 of this information sheet.

COVERAGE INFORMATION

14. **Dollar Limits** of required insurance are sometimes set by statute or ordinance. When there is no specific amount required by law, limits are based on the amount of risk to the CITY from the contractor, vendor or permittee's activities.

15. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third party claims which may arise out of your work or your presence on CITY premises. **Contractual liability** coverage is a required inclusion in this insurance. (See separate information sheet on the CITY'S SPARTA program as an optional source of low-cost insurance which meets all requirements.)

16. **Automobile Liability** insurance is required only where vehicles are used in performing the work of your Contract or where they are driven off-road on CITY premises; it is not required for simple commuting unless CITY is paying mileage.

However, compliance with California law requiring auto liability insurance is a contractual requirement.

17. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

18. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. **Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc.

19. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Fire Legal Liability** is required for persons occupying a portion of CITY premises.

20. **Surety** coverage may be required to guarantee performance of work. A **Fidelity bond** may be required to handle CITY funds, high value property and under certain other conditions. **Specialty coverages** may be needed for certain operations.

**EXHIBIT B
CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 24 CFR Part 24 Section 24.510, Participants' responsibilities.

(READ ATTACHED INSTRUCTIONS FOR CERTIFICATION BEFORE COMPLETING)

1. The prospective recipient of Federal assistance funds certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

AGREEMENT NUMBER _____

CONTRACTOR/BORROWER/AGENCY

NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

SIGNATURE

DATE

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this document, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to which this agreement is entered, if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous, when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective recipient of Federal assistance funds further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each

participant may, but is not required to, check the List of Parties Excluded from Procurement or Non-Procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

|

EXHIBIT C
CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans
and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any 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 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, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. 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.

AGREEMENT NUMBER _____

CONTRACTOR/BORROWER/AGENCY

NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

SIGNATURE

DATE

EXHIBIT D

Project Services

- Single license of FirstWatch Thin-Client (Remote Data Gathering) Software installed on Licensee's dedicated FirstWatch PC/Server
 - All data integration with Los Angeles Fire Department's Computer Aided Dispatch System integrated via:
 - Connectivity to a data source via ODBC or similar means;
 - or Text or XML **file** output for each incident from a Licensee-provided process (one or more files for each incident) that provides files on the dedicated FirstWatch PC/Server;
 - or client provided web services interface allowing FirstWatch to securely access, query and receive necessary data via a non-dedicated internet connection. Client provided web services interface will include the ability to encrypt and decrypt data and options to query live and historical data.
 - Data Shuttle, remote connectivity and other software and processes on Licensee's dedicated FirstWatch PC which work together to reliably and securely transmit data to the FirstWatch Data Center, and allow for remote support, using Licensee-provided, always-on Internet connectivity.
 - Linking of data sources requires, at a minimum, a unique key that exists within each data source in a useable format.
- Modify centrally located FirstWatch server-based processes, software and database as necessary to receive Licensee's data, import into FirstWatch database, and monitor for statistically-significant increases in volume or geographic clusters of calls which meet user-defined criteria.
- Provide up to fifty (50) Licensee-specific user login(s) and password(s) to allow up to six (6) simultaneous users on the FirstWatch subscriber Internet site, which doubles during an alert to twelve (12) simultaneous users. (Access by additional users may be purchased, and access via FirstWatch to other, 3rd-party services or tools, may be licensed separately.)
- Provide the ability for the Licensee to define all system included and client purchased "trigger sets" for monitoring by FirstWatch. Licensee will be able to make up to 4 major or "wholesale" changes to each trigger per year.
- Provide the ability for the Licensee to define up to fifty (50) alert recipients for each trigger, via a combination of email, text messaging, fax, or compatible paging system.

Provide a default "All Events" trigger with monitoring and alerts to demonstrate complete functionality of system.

Exhibit D – 1: FW Software/Hardware Requirements

FirstWatch Hardware Requirements:	
Minimum (only if using existing equipment)	Preferred (required/minimum if new equipment)
Dedicated PC or Virtual Machine used exclusively for FirstWatch purposes	Dedicated Server or Virtual Machine used exclusively for FirstWatch purposes
Pentium IV Compatible 2.0GHz or better as long as it meets the minimum requirements for installed OS	Core Duo 2.4GHz or better
1GB RAM or better	4GB RAM or better
250GB Hard Drive or larger (two partitions 20GB (OS), balance as data)	500GB Hard Drive or larger (two partitions 20GB (OS), balance as data)
10/100mb Ethernet Card	100mb / 1GB Ethernet Card
16/32bit color video, capable of displaying 1024 x 768 in "High" or "True" color	16/32bit color video, capable of displaying 1024 x 768 in "High" or "True" color
Keyboard / mouse / monitor or via KVM	Keyboard / mouse / monitor or via KVM
CD-R/CD R-RW drive or better	CD-RW/DVD drive or better
FirstWatch Software Requirements:	
Minimum	Preferred
Microsoft Windows 2003/2008/XP/Vista/7 Professional including all the latest updates and patches loaded	Microsoft Windows Server 2008 (64bit) Standard Edition including all the latest updates.
Complete (run all from my hard drive) installation of Microsoft Access 2007 or later including all the latest updates and patches loaded. If the database to be monitored is MS SQL Server, SQL Server Management Studio can be installed instead of MS Access. Note: If Priority Alert was purchased, preferred specifications are required.	Complete (run all from my hard drive) installation of Microsoft Access 2007 or later including all the latest updates and patches loaded. If the database to be monitored is MS SQL Server, SQL Server Management Studio can be installed instead of MS Access. NOTE: The FirstWatch Priority Alert Module Requires MS SQL Server 2008 R2 Express Edition download for free at: http://www.microsoft.com/express/database
ODBC driver or other licensed and approved connectivity to underlying database	ODBC driver or other licensed and approved connectivity to underlying database
Virus Protection Software of customer's choosing	Virus Protection Software of customer's choosing
WinZip or compatible software - Not Required if functionality included in Windows OS	WinZip or compatible software - Not Required if functionality included in Windows OS
Microsoft .NET Framework Version 3.5. (installed with local FirstWatch Thin Client Software)	Microsoft .NET Framework Version 3.5 (installed with local FirstWatch Thin Client Software)
Automated Time synchronization software or process of clients choosing. MS Windows OS feature is fine.	Automated Time synchronization software or process of clients choosing. MS Windows OS feature is fine.

Connectivity / Firewall & Environment:
Always-on high speed broadband Internet connectivity under customer specified and controlled security settings; Recommend static IP address with hardware firewall.
Read-only Network access to database(s) being monitored (ODBC connection)
Outbound access for HTTP (port 80) and HTTPS (port 443) with access to *.firstwatch.net.
For agencies using FirstWatch provided WebEx Remote Access service for installation and support, it may be necessary to create an exception list for WebEx sites on the firewall or proxy to properly use WebEx services. In most cases, the IP Range that can be used to add an exception for the firewall or proxy is 64.68.96.0-64.68.127.255.
SMTP account and access through client controlled server (preferred, not required) or SMTP access to mail.stoutsolutions.com and mail.firstwatch.net. SMTP will be required for Priority Alerting Module if it was purchased.
Local (not network) server administrator account with access to specifications above.
To maximize system availability FirstWatch recommends remote-client hardware be located with other critical systems and when possible include UPS, back-up generator, monitored data circuit(s) and HVAC controlled secure environment.
Support:
<i>Minimum</i>
Allow FirstWatch access to the dedicated machine via WebEx Remote Access client services (or authorized substitute, including VPN). WebEx Remote Access client software provided with FirstWatch under maintenance and service agreement. If VPN or other connection requires additional hardware or software on client or support side, it will be the responsibility of the customer to supply it.

Disclaimer: Although FirstWatch requires a dedicated machine for our applications, some clients have requested running the FirstWatch applications on a server that is shared with other applications or in a virtual server environment. We have successfully deployed in a combination of these configurations and are willing to attempt an install in this environment if the client understands that there is risk involved. The risk is that if another process or application on the same machine renders the machine unresponsive, it could potentially stop the processing of the FirstWatch applications. Conversely the FirstWatch applications may affect the other applications. Therefore, if the client decides to move forward in this manner and results in ongoing problems with our application, we will respectfully request that our system be transferred to a dedicated machine for the purpose of running the FirstWatch applications. FirstWatch staff will be happy to assist the client with reconfiguring the FirstWatch system on a new machine.



Exhibit D-2: FIRSTWATCH SOLUTIONS, INC. SYSTEM MAINTENANCE AGREEMENT

This System Maintenance Agreement ("Agreement") is made and entered into as of _____, 2012, (the "Effective Date") by FirstWatch Solutions, Inc., ("FirstWatch"), a subsidiary of Stout Solutions, LLC, and the undersigned client ("Client").

BACKGROUND

FirstWatch provides data monitoring, syndromic surveillance software and other services (the "FirstWatch System") to Client;

Client and FirstWatch have entered into a Software License Agreement dated October 4, 2007 (the Software License Agreement").

The parties wish to reaffirm the Software License Agreement and continue the Maintenance Services on the terms contained in this Agreement.

AGREEMENT

In exchange for the mutual promises contained in this Agreement and other good and valuable consideration, Client and FirstWatch agree to the following:

1. *Services to be Provided by FirstWatch.* FirstWatch shall perform the maintenance services and upgrades described in this Section 1 and more fully set forth on Exhibit D-2-A ("Maintenance Services").

1.1. *Server Hosting.* Subject to the terms set forth in this Agreement, FirstWatch queries and exports or otherwise receives data from Client, or Client-affiliated organization(s), and securely aggregates that data into the FirstWatch Data Center(s)' database(s). FirstWatch implements and maintains a data monitoring system, and monitors records for user-defined criteria, and sends automatic notifications that such criteria have been met. FirstWatch also maintains an Internet site for FirstWatch Clients and Client-authorized subscribers to enable authorized online viewing of Client's records, criteria, notifications, etc., all collectively known as "Triggers".

1.2. *Software Bug Fixes, Upgrades and Enhancements.* During the Term of this Agreement, FirstWatch will maintain and, in some cases, enhance the FirstWatch infrastructure and software feature set that

comprises section 1.1 of this Agreement. Maintenance will include up to two major rewrites of each FirstWatch Trigger per year, as well as software bug fixes and system upgrades as they become available. Additionally, from time-to-time, FirstWatch may offer Client access to optional enhancements and/or add-ons at additional cost, not covered by Fees associated with this Agreement. Further, while FirstWatch will make every reasonable effort to assist Client with trouble-shooting, Maintenance Services do not cover repairs, re-installations, re-configuration, or other work relating to Client's third party software, hardware, networking, etc., or resulting from failures or errors of such components. Also, Maintenance Services will not cover other changes by non-FirstWatch personnel or processes, which result in problems providing the Maintenance Services. Examples include, but are not limited to, changes in the underlying data structure, data feed, code files, client networking or security changes, data entry procedures, etc.

1.3. *Training and Technical Support.* FirstWatch will provide training for Client personnel and make available training materials to persons whom Client identified as authorized users in accordance with the standards set forth on Exhibit D-2-A. FirstWatch may at any time amend Exhibit D-2-A to reflect changes in its business model or Maintenance Service offerings without notice to Client, provided, however, that the Maintenance Services provided to Client shall be substantially similar or superior to those offered on the Effective Date.

2. *Term.* The initial term of this Agreement (the "Term") begins as of the Effective Date and will continue, unless renewed pursuant to Section 3, until the close of business on the first (1st) anniversary of the Effective Date.

3. *Renewal.* The Term will automatically renew for additional one (1) year periods, (each such additional period being referred to in this Agreement as a "Renewal Term") unless, at least thirty (30) days prior to the expiration of the Term, or any Renewal Term, as the case may be, Client provides notice to FirstWatch of its intention to allow the Term or Renewal Term to expire without renewal.

4. *Payment Terms.* On or before the Effective Date, Client will pay to FirstWatch an annual maintenance fee as set forth on the invoice that accompanies this Agreement. FirstWatch reserves the right to change its fees effective as of the end of the Term or Renewal Term, as the case may be, and will provide Client notice at least sixty (60) days prior to the end of any Term or Renewal Term of any proposed amendment to the Fee Schedule.

5. *Termination.* Either party may terminate this Agreement if there is a material breach by the other party that is not cured within thirty (30) days after receipt of written notice of such breach. Upon termination of this Agreement, Client shall discontinue use of the FirstWatch System and the Software and return to FirstWatch or, at FirstWatch's option, certify in writing, the destruction of all Software, documentation and FirstWatch training materials.

6. *Miscellaneous.*

6.1. *Effectiveness of the Software License Agreement.* Each party hereby affirms that the Software License Agreement remains in full force and effect and agrees to continue to comply with its terms.

6.2 *Independent Contractors.* The parties and their respective personnel, are and will be independent contractors and neither party by virtue of this Agreement will have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party.

6.3 *Waiver.* No waiver of any provision hereof or of any right or remedy hereunder will be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. No delay in exercising, no course of dealing with respect to, and no partial exercise of any right or remedy hereunder will constitute a waiver of any other right or remedy, or future exercise thereof.

6.4 *Severability.* If any provision of this Agreement is determined to be invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Agreement will remain enforceable.

6.5 *Notice.* All notices will be in writing and will be deemed to be delivered when received by certified mail, postage prepaid, return receipt requested, or when sent by facsimile or e-mail

confirmed by call back. All notices will be directed to the Authorized Representatives of the parties specified in the Software License Agreement, at the respective addresses as either party may, from time to time, designate by notice to the other party.

6.6 *Amendment.* No amendment, change, waiver or discharge hereof will be valid unless in writing and signed by both parties.

6.7 *Assignment.* Neither party shall assign any of its rights or obligations under this Agreement whether voluntarily or by operation of law without the written consent of the other party, provided however, that either party will have the right to assign its obligations hereunder without consent to any acquiror by merger, sale of substantially all of a party's assets, or majority of its stock or otherwise.

6.8 *Entire Agreement.* This Agreement, together with Exhibit D-2-A which is hereby incorporated in this Agreement by reference, together with the Software License, represents the complete and exclusive statement of all mutual understandings between the parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous proposals, communications and understandings, oral or written. If there is a conflict between the terms of the Software License Agreement and this Agreement, the terms of this Agreement shall govern. If there is a conflict between this Agreement and the specifications set forth on Exhibit D-2-A to this Agreement, then the terms of Exhibit D-2-A will govern.

IN WITNESS WHEREOF, the parties have signed and delivered this Agreement with the intention of being bound effective as of the Effective Date.

FirstWatch Solutions, Inc.

By: _____

Title: President

Client: City of Los Angeles, (LAFD):

By: _____

Title: _____

Exhibit D-2-A FirstWatch® Maintenance Services

FirstWatch may, at any time, amend this document to reflect changes in its business model or service offerings without notice to Client, provided, however, that the Services provided to Client following an amendment shall be substantially similar or superior to those offered by FirstWatch.

Software and data center maintenance and support is included as part of Client's annual maintenance fees.

Support and Maintenance Services include:

- Normal Business Hour Support
- 24/7 Urgent Technical Support
- FirstWatch Thin-Client Support
- FirstWatch Automated System Health Monitoring
- FirstWatch Software Updates and Fixes
- FirstWatch Selected Software and System Enhancements
- Guidance and Support in Configuring Triggers

FirstWatch Responsibilities

Normal Business Hours Support

FirstWatch provides normal business hour support for non-critical matters such as configuration consultation, general questions/comments to report possible system problems and enhancement requests.

Normal Business Hours:

Mon-Fri, 9:00 am – 5:00 pm (Pacific Time), excluding holidays.

FirstWatch will make every effort to respond to all requests within one (1) business day or sooner.

24/7 Urgent Technical Support

24/7 technical support for urgent matters such as inability to access FirstWatch subscriber site or other urgent technical issues that may prevent normal use of the FirstWatch System – excluding issues within the Client's scope of responsibility. On-call technical support is not intended to be used for routine maintenance or changes to the FirstWatch System, unless the change is of an emergent nature.

FirstWatch will make every effort to respond to urgent technical support inquiries within two (2) hours or less.

FirstWatch will provide contact information and methods for requesting support.

FirstWatch Automated System Health Monitoring

FirstWatch includes several processes that monitor the Client's local FirstWatch System health related to data sources, network connectivity and status of Internet connection. This automated process logs system processes and notifies the on-call technician of potential system trouble.

FirstWatch Software Updates and Fixes

Includes all software updates to the FirstWatch modules purchased by the Client as long as maintenance for these modules is current and paid. In most cases updates are applied remotely and do not require any action by Client.

FirstWatch Selected Software and System Enhancement

Selected software and system enhancements may be implemented and offered to Client as add-ons to Client's FirstWatch System. Future additional software and system modules will be offered to Client at a discounted rate.

Advanced Notification of Downtime

In the event that the FirstWatch System or the Client's local FirstWatch System needs to be taken off-line for support, upgrades or maintenance, reasonable efforts will be made to notify the Client of the down-time in advance. Every effort will be made to provide Client with 24 hours advanced notice.

Client Responsibilities

FirstWatch Thin-Client

Client is responsible for maintaining the FirstWatch Thin-Client hardware & non-FirstWatch software, including operating system updates/patches, antivirus systems, firewalls, network and internet connectivity to FirstWatch technical specifications. Although FirstWatch will be happy to provide reasonable telephone or email technological advice on support and configuration matters, it is the Client's responsibility to maintain the functional platform for FirstWatch.

Remote Access

The FirstWatch preferred method of remote connectivity is via WebEx Access Anywhere. This functionality is provided to Client at no additional cost. Alternative methods of connectivity, such as Cisco VPN, Windows VPN or PCAnywhere can be considered, however Client may be responsible for associated costs relating to licensing, training and configuration of these methods. At least five (5) FirstWatch Support Technicians or Engineers will need access, and may need Client-provided software licenses, authentication devices (smart cards, etc) user accounts or other related items/processes.

If Client chooses not to grant FirstWatch 24/7 remote connectivity, they do so with the understanding this may delay FirstWatch from providing support and maintenance service until access is granted. Similarly, remote access methods other than detailed above may have the effect of delaying support and maintenance.

Client Technical Support Procedure

FirstWatch requests each Client provide contact information and desired procedures to follow when on-site support is needed. FirstWatch will use this information when a technical issue arises that cannot be resolved remotely either due to loss of connectivity to the FirstWatch Thin-Client or other unexpected problem. FirstWatch may not be able to adequately support the FirstWatch Thin-Client until on-site support personnel are available.

It is preferred that Client establishes internal support policies and have on-site personnel who can readily access the FirstWatch Thin-Client, test Internet connectivity and assist with basic trouble-shooting of OS, networking, database systems and knowledge of authentication/security processes for each system.

Client is also requested to identify individuals, including contact information for those individuals who are designated to request changes to system triggers, alerting matrix and other system information.

Advanced Notification of Client's Downtime, Data Source Changes, etc.

Client will notify FirstWatch of scheduled and unscheduled changes or downtime for the FirstWatch-monitored data source(s), network or Thin-Client hardware or software, or connectivity changes, as well as upgrades, maintenance or other changes which might affect the FirstWatch System.

Trigger Guidance & Training

Guidance and Support in Configuring and Triggers

FirstWatch will offer guidance and support to Clients in the configuration of their triggers, implementation of system and overall usage of FirstWatch. This guidance includes general best practices, sharing of processes and procedures of other FirstWatch Clients with the goal of assisting Client to achieve maximum benefit from their FirstWatch System.

Trigger Definition, Re-definition, & Refinement

FirstWatch will work with Client to make complete "wholesale" changes to each Trigger up to 2 times per year, and as many minor refinements to existing triggers as the Client reasonably requires per year. (Note: FirstWatch is working to develop & provide user-oriented, online tools to allow Client to define, re-define and/or refine triggers themselves, without FirstWatch involvement. Once

such tools are available, FirstWatch may reduce the number of minor refinements that will be done at no additional charge by FirstWatch on Client's behalf.)

Access to FirstWatch Documentation & Training Materials

FirstWatch will provide Client access to electronic versions of all available training materials pertinent to FirstWatch features available to Client as part of their initial Agreement and/or Maintenance Agreement.

Access to FirstWatch-Provided Online Group User-Training

FirstWatch will provide Client access to occasional (typically 2-4 per year) online multi-Client training sessions pertinent to Client's FirstWatch features.

Additional Training Available

If Client has purchased, or does purchase, additional general or Client-specific training, it will be separately scheduled at a time that is mutually acceptable to Client and FirstWatch, and will typically be provided online with standard FirstWatch materials, and customized to meet Client needs via interactive and online training.

Exhibit D-3: Pricing and Payment Schedule

This Agreement is dependent on funding by Los Angeles County and the Los Angeles Fire Department may cancel this Agreement at any time, with no obligation if the County fails to provide funds to cover the costs shown below, for any reason.

Quantity	Description	Item Total
1	Annual Support Renewal for FirstWatch System at LAFD for period from 7/1/2012 to 6/30/2013	\$67,617.00
1	Annual Support Renewal for FirstWatch System at LAFD for period from 7/1/2013 to 6/30/2014	\$67,617.00
1	Annual Support Renewal for FirstWatch System at LAFD for period from 7/1/2014 to 6/30/2015	\$67,617.00
1	Annual Support Renewal for FirstWatch System at LAFD for period from 7/1/2015 to 6/30/2016	\$67,617.00
1	Annual Support Renewal for FirstWatch System at LAFD for period from 7/1/2016 to 6/30/2017	\$67,617.00
System Support Renewal Total		\$338,085.00

EXHIBIT D-4

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the "BA-Agreement"), is made as of the ___ day of _____, 2012 (the "Effective Date"), by and between Business Associate and Covered Entity (collectively the "Parties") to comply with the privacy and security standards required under the Health Insurance Portability and Accountability Act of 1996 (HIPAA Administrative Simplification), adopted by the U.S. Department of Health and Human Services as they may be amended from time to time, 45 C.F.R. parts 160, 162 and 164, and in order to satisfy the electronic storage requirements of the Health Information Technology for Economic and Clinical Health Act, (hereinafter the "HITECH Act"), and any applicable state confidentiality laws.

RECITALS

WHEREAS, Business Associate provides professional computing services for real-time early warning of multiple EMS events in the City of Los Angeles as stipulated in Agreement Nos. _____ (L.A. County) and _____ (L.A. City);

WHEREAS, in connection with these services, Covered Entity discloses to Business Associate certain protected health information that is subject to protection under the HIPAA Administrative Simplification and the HITECH Act.

WHEREAS, the HIPAA Administrative Simplification requires that Covered Entity receive adequate assurances that Business Associate will comply with certain obligations with respect to the Protected Health Information (PHI) received in the course of providing services to or on behalf of Covered Entity.

NOW THEREFORE, in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. Definitions. Terms used in this Agreement, but not otherwise defined, shall have the meaning ascribed by the HIPAA Administrative Simplification, and the HITECH Act, as amended from time to time.

1. Business Associate shall have the meaning ascribed in 45 CFR §164.103, and refer to First Watch for purposes of this Agreement.

2. Contract means Los Angeles City Contract number _____ by and between the City of Los Angeles and First Watch Solutions, Inc. which include performing activities related to computing services for the real-time early warning of multiple similar EMS events for the Los Angeles Fire Department (LAFD).

3. Covered Entity means the Los Angeles Fire Department (LAFD), a health care component of the City of Los Angeles.

4. Designated Record Set means a group of records maintained by or for a Covered Entity that is: (i) the medical records about individuals maintained by or for a covered health care provider; (ii) the enrollment, payment, claims adjudication, and case or medical management record system maintained by or for a health plan; or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about Individuals. For purposes of this definition, the term “record” means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a Covered Entity.

5. HITECH Act means the Health Information Technology for Economic and Clinical Health Act, which is Title XIII of the American Recovery and Reinvestment Act, and any amendments, regulations, rules, and guidance issued thereto and the relevant dates for compliance.

6. HIPAA Administrative Simplification means 45 CFR 160, 162 and 164, as amended from time to time, but only to the extent that it applies to Covered Entity and Business Associate.

7. Hybrid Entity means the City of Los Angeles, a single legal entity, (i) that is a Covered Entity; (ii) whose business activities include both covered and non-covered functions; and (iii) that designated its Fire Department as a health care component pursuant to 45 U.S.C. 105 (a) (2)(iii)(C), by its action on July 30, 2010 (CF 10-1181).

8. Individual means the person who is the subject of the protected health information under the definition found at 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

9. Protected Health Information or PHI means the individually identified health information described at 45 C.F.R. §160.103 which is transmitted by electronic media; maintained in electronic media; or transmitted or maintained in any form or medium.

10. Required By Law means mandate contained in law that compels a use or disclosure of PHI (§164.512(a)(1) and (2))

11. Secretary means the Secretary of the Department of Health and Human Services or their designee.

B. DISCLOSURE OF PHI TO BUSINESS ASSOCIATE

In connection with the services provided by Business Associate to or on behalf of Covered Entity, described in this Agreement, Covered Entity may disclose PHI to Business Associate for the purposes of performing all described activities related to the real-time early warning of multiple similar EMS events by the LAFD. These activities may include, but is not limited to, a review of Patient Care Records (PCR) or other data sets that include PHI. In addition, Business Associate may be required from time to time, to transmit PHI to other business associates or covered entities. Business Associate shall comply with its obligations under this Agreement and with all obligations of a business associate under HIPAA, HITECH, and other related laws and any implementing regulations, as they exist at the time this Agreement is executed and as they are amended, for so long as this Agreement is in place.

C. OBLIGATIONS OF COVERED ENTITY

1. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

2. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.

3. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use disclosure of Protected Health Information.

4. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA if done by Covered Entity.

D. OBLIGATIONS OF BUSINESS ASSOCIATE

Business Associate agrees to comply with applicable federal and state privacy and security laws, specifically the provisions of the HIPAA Administrative Simplification to the extent applicable to business associates.

1. Use and Disclosure of PHI. Except as otherwise permitted by this Agreement or applicable law, Business Associate shall not use or disclose PHI other than as permitted or required by the Agreement or as Required By Law, except as necessary to provide real-time early warning of multiple similar EMS

events of the LAFD to the Los Angeles County Department of Health Services and United States Center for Disease Control as described in Agreement No. _____ on behalf of the Covered Entity. These activities include a review of all records and may include the transmitting or receiving of PHI, as may be required from time to time, to other business associates or covered entities on behalf of Covered Entity. Business Associate shall not use or disclose PHI that would violate the HIPAA Rules if used or disclosed by Covered Entity. Provided, however, Business Associate may use and disclose PHI as necessary for the proper management and administration of Business Associate, or to carry out its legal responsibilities. Business Associate shall in such cases:

- (a) provide information to members of its workforce using or disclosing PHI regarding the confidentiality requirements of the HIPAA Administrative Simplification and this Agreement;
- (b) obtain reasonable assurances from the person or entity to whom the PHI is disclosed that: (i) the PHI will be held confidential and further used and disclosed only as Required by Law or for the purpose for which it was disclosed to the person or entity; and (ii) the person or entity will notify Business Associate of any instances of which it is aware in which confidentiality of the PHI has been breached; and
- (c) agree to notify the designated Privacy Officer of Covered Entity of any instances of which it is aware in which the PHI is used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the HIPAA Rules.

2. Data Aggregation. In the event that Business Associate works for more than one Covered Entity, Business Associate is not permitted to use and disclose PHI for data aggregation purposes, however, only in order to analyze data for permitted health care operations, and only to the extent that such use is permitted under the HIPAA Administrative Simplification.

3. De-identified Information. Business Associate may use and disclose de-identified health information if (i) the use is disclosed to Covered Entity in writing and permitted in writing by Covered Entity in its sole discretion and (ii) the de-identification is in compliance with 45 C.F.R. §164.502(d), and the de-identified health information meets the standard and implementation specifications for de-identification under 45 C.F.R. §164.514(a) and (b).

4. Safeguards. Business Associate shall maintain appropriate safeguards to ensure that PHI is not used or disclosed other than as provided by this Agreement or as required by law. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic PHI it creates, receives, maintains, or transmits on behalf of Covered Entity.

5. Minimum Necessary. Business Associate shall attempt to ensure that all uses and disclosures of PHI are subject to the principle of “minimum necessary use and disclosure,” i.e., that only PHI that is the minimum necessary to accomplish the intended purpose of the use, disclosure, or request is used or disclosed.

6. Disclosure to Agents and Subcontractors. If Business Associate discloses PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, to agents, including a subcontractor, Business Associate shall require the agent or subcontractor to agree to the same restrictions and conditions as apply to Business Associate under this Agreement. Business Associate shall ensure that any agent, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity. Business Associate shall be liable to Covered Entity for any acts, failures or omissions of the agent or subcontractor in providing the services as if they were Business Associate’s own acts, failures or omissions, to the extent permitted by law. Business Associate further expressly warrants that its agents or subcontractors will be specifically advised of, and will comply in all respects with, the terms of this Agreement.

7. Individual Rights Regarding Designated Record Sets. If Business Associate maintains a Designated Record Set on behalf of Covered Entity Business Associate agrees as follows:

- (a) Individual Right to Copy or Inspection. Business Associate agrees that if it maintains a Designated Record Set for Covered Entity that is not maintained by Covered Entity, it will, in the event any Individual delivers directly to Business Associate a request for access to PHI, in order for Covered Entity to respond to such Individual, forward such request to Covered Entity in order to meet the requirements of 45 C.F.R. § 164.524. Under the HIPAA Administrative Simplification, Covered Entity is required to take action on such requests as soon as possible, but not later than 30 days following receipt of the request. Business Associate agrees to make reasonable efforts to assist Covered Entity in meeting this deadline. The information shall be provided in the form or format requested if it is readily producible in such form or format; or in summary, if the Individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying health information may be charged. If Covered Entity maintains the requested records, Covered Entity, rather than Business Associate shall permit access according to its policies and procedures implementing the HIPAA Administrative Simplification.

- (b) Individual Right to Amendment. Business Associate agrees, if it maintains PHI in a Designated Record Set, to make the Designated Record Set available to Covered Entity for amendments to PHI pursuant to 45 C.F.R. 164.526.

- (c) Accounting of Disclosures. Business Associate agrees to maintain documentation of the information required to provide an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528, and to make this information available to Covered Entity upon Covered Entity's request, in order to allow Covered Entity to respond to an Individual's request for accounting of disclosures. Under the HIPAA Administrative Simplification, Covered Entity is required to take action on such requests as soon as possible but not later than 60 days following receipt of the request. Business Associate agrees to use its best efforts to assist Covered Entity in meeting this deadline. Such accounting must be provided without cost to the individual or Covered Entity if it is the first accounting requested by an individual within any 12 month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs the Covered Entity in advance of the fee and is afforded an opportunity to withdraw or modify the request. Such accounting is limited to disclosures that were made in the three (3) years prior to the request (not including disclosures prior to the compliance date of the HIPAA Administrative Simplification and shall be provided for as long as Business Associate maintains the PHI.

8. Internal Practices, Policies and Procedures. Except as otherwise specified herein, Business Associate shall make available its internal practices, policies and procedures relating to the use and disclosure of PHI, received from or on behalf of Covered Entity to the Secretary or his or her agents for the purpose of determining Covered Entity's compliance with the HIPAA Rules, or any other health oversight agency, or to Covered Entity. Records requested that are not protected by an applicable legal privilege will be made available in the time and manner specified by Covered Entity or the Secretary.

9. Notice of Privacy Practices. Business Associate shall abide by the limitations of Covered Entity's Notice of which it has knowledge. Any use or disclosure permitted by this Agreement may be amended by changes to Covered Entity's Notice; provided, however, that the amended Notice shall not affect permitted uses and disclosures on which Business Associate relied prior to receiving notice of such amended Notice.

10. Withdrawal of Authorization. If the use or disclosure of PHI in this Agreement is based upon an Individual's specific authorization for the use or disclosure of his or her PHI, and the Individual revokes such authorization, the effective date of such authorization has expired, or such authorization is found to

be defective in any manner that renders it invalid, Business Associate shall, if it has notice of such revocation, expiration, or invalidity, cease the use and disclosure of the Individual's PHI except to the extent it has relied on such use or disclosure, or if an exception under the HIPAA Administrative Simplification expressly applies.

11. Knowledge of HIPAA Rules. Business Associate agrees to review and understand the HIPAA Rules as it applies to Business Associate, and to comply with the applicable requirements of the HIPAA Rule, as well as any applicable amendments.

12. Security Incident. Business Associate agrees to immediately report to the Covered Entity any security incident of which Business Associate becomes aware.

E. Term and Termination.

1. Term.

The Term of this Agreement shall be effective as of the Effective Date of the Contract, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

2. Termination for Cause.

Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- (a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Contract if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
- (b) Immediately terminate this Agreement and the Contract if Business Associate has breached a material term of this Agreement and cure is not possible; or
- (c) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

3. Effect of Termination.

- (a) Except as provided in paragraph (b) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
- (b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon discovering that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

F. Miscellaneous

1. Indemnification.

- (a) To the extent permitted by law, Business Associate agrees to indemnify and hold harmless Covered Entity from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, attorney's fees, defense costs, and equitable relief), for any damage or loss incurred by Covered Entity arising out of, resulting from, or attributable to any acts or omissions or other conduct of Business Associate or its agents in connection with the performance of Business Associate's or its agents' duties under this Agreement. This indemnity shall apply even if Covered Entity is alleged to be solely or jointly negligent or otherwise solely or jointly at fault; provided, however, that a trier of fact finds Covered Entity not to be solely or jointly negligent or otherwise solely or jointly at fault. This indemnity shall not be construed to limit Covered Entity's rights, if any, to common law indemnity.
- (b) Covered Entity shall have the option, at its sole discretion, to employ attorneys selected by it to defend any such action, the costs and expenses of which shall be the responsibility of Business Associate. Covered Entity shall provide Business Associate with timely notice of the existence of such proceedings and such information, documents and

other cooperation as reasonably necessary to assist Business Associate in establishing a defense to such action.

- (c) These indemnities shall survive termination of this Agreement, and Covered Entity reserves the right, at its option and expense, to participate in the defense of any suit or proceeding through counsel of its own choosing.
2. Mitigation. If Business Associate violates this Agreement or the HIPAA Rules, Business Associate agrees to mitigate any damage caused by such breach, and bear any such related costs.
 3. Rights of Proprietary Information. Covered Entity retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate.
 4. Survival. The respective rights and obligations of Business Associate under Section (Effect of Termination) of this Agreement shall survive the termination of this Agreement.
 5. Notices. Any notices pertaining to this Agreement shall be given in writing and shall be deemed duly given when personally delivered to a Party or a Party's authorized representative as listed below or sent by means of a reputable overnight carrier, or sent by means of certified mail, return receipt requested, postage prepaid. A notice sent by certified mail shall be deemed given on the date of receipt or refusal of receipt. All notices shall be addressed to the appropriate Party as follows:

If to Covered Entity:

Brian L. Cummings, Fire Chief
Los Angeles Fire Department
200 N. Main St., Room 1800
Los Angeles, California 90012
(213) 978-3838
(213) 978-3814 fax

And:

Allen Norman, Privacy Officer
Los Angeles Fire Department
200 N. Main St., Room 1800
Los Angeles, California 90012
(213) 978-3800
(213) 978-3814 fax

If to Business Associate:
Mr. Todd Stout
Chief Executive Officer
First Watch Solutions, Inc.
322 Encinitas Blvd, Suite # 100
Encinitas, CA 92024
(760) 753-6500

6. Amendments. This Agreement may not be changed or modified in any manner except by an instrument in writing signed by a duly authorized officer of each of the Parties hereto. The Parties, however, agree to amend this Agreement from time to time as necessary, in order to allow Covered Entity to comply with the requirements of the HIPAA Rules.
7. Choice of Law. This Agreement and the rights and the obligations of the Parties hereunder shall be governed by and construed under the laws of the State of California, without regard to applicable conflict of laws principles.
8. Assignment of Rights and Delegation of Duties. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns. However, neither Party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding any provisions to the contrary; however, Covered Entity retains the right to assign or delegate any of its rights or obligations hereunder to any City department or office in a manner consistent with the HIPAA Rules. Assignments made in violation of this provision are null and void.
9. Nature of Agreement. Nothing in this Agreement shall be construed to create (i) a partnership, joint venture or other joint business relationship between the Parties or any of their affiliates, (ii) any fiduciary duty owed by one Party to another Party or any of its affiliates, or (iii) a relationship of employer and employee between the Parties.
10. No Waiver. Failure or delay on the part of either Party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. No provision of this Agreement may be waived by either Party except by a writing signed by an authorized representative of the Party making the waiver.
11. Equitable Relief. Any disclosure of misappropriation of PHI by Business Associate in violation of this Agreement will cause Covered Entity irreparable harm, the amount of which may be difficult to ascertain. Business Associate therefore agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining

and enjoining Business Associate from any such further disclosure or breach, and for such other relief as Covered Entity shall deem appropriate. Such rights are in addition to any other remedies available to Covered Entity at law or in equity. Business Associate expressly waives the defense that a remedy in damages will be adequate, and further waives any requirement in an action for specific performance or injunction for the posting of a bond by Covered Entity.

12. Severability. The provisions of this Agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.
13. No Third Party Beneficiaries. Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not party to this Agreement nor imposing any obligations on either Party hereto to persons not a party to this Agreement.
14. Headings. The descriptive headings of the articles, sections, subsections of this Agreement are inserted for convenience only, do not constitute a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement.
15. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Rules and any applicable state confidentiality laws. The provisions of this Agreement shall prevail over the provisions of any other agreement that exists between the Parties that may conflict with, or appear inconsistent with, any provision of this Agreement or the HIPAA Rules.
16. Regulatory References. A citation in this Agreement to the Code of Federal Regulations shall mean the cited section as that section may be amended from time to time.

***** (Signature Page to Follow) *****

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives.

Dated: _____

For: THE CITY OF LOS ANGELES

By: _____

Brian Cummings
Fire Chief
Los Angeles Fire Department

Dated: _____

For: First Watch Solutions, Inc.

By: _____

Mr. Todd Stout
Chief Executive Officer

Approved as to Form:
CARMEN A. TRUTANICH, City Attorney

ATTEST:
JUNE LAGMAY, City Clerk

By: _____

Anthony-Paul Diaz
Deputy City Attorney

By: _____

Deputy City Clerk

Date: _____

Date: _____

Agreement Number: _____

ASSURANCES—NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 45, minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET, SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-2S5), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and 111 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Exhibit E

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-33.3), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984 or OMB Circular No. A-133, Audits of Institutions of Higher Learning and other Non-profit Institutions.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED