

Los Angeles Unified School District

Procurement

JOHN E. DEASY, Ph.D.
Superintendent of Schools

MICHELLE KING
Senior Deputy Superintendent, School Operations



ENRIQUE BOULL'T
Chief Operating Officer

MARK HOVATTER
Interim Chief Facilities Executive

Date: September 28, 2012

Attention: Respondents

Subject: INFORMAL REQUEST FOR QUALIFICATIONS (IRFQ) NO. 1102
SPECIALIZED SUPPORT SERVICES

The Los Angeles Unified School District (“**LAUSD**” or “**District**”) seeks from qualified firms evidence of qualification to provide specialized support services in the areas of application development, program management and network engineering to be used on an as-needed basis by large scale initiatives to ensure a collective of projects will remain on schedule to adequately prepare the District’s technology environment for Common Core Standards and ensure that food, health, and special education services will be provided as outlined in **Statement of Qualifications (SOQ)**.

The purpose of this IRFQ is to qualify vendors to participate in a Task Order (TO)/ Work Order (WO) Solicitation Process by which a firm will be selected to provide the Specialized Support Services (the “TO”/”WO”- Please note that for the purpose of this IRFQ Task Order (TO) and Work Order (WO) are interchangeable). Only those firms that submit qualifications in response to this IRFQ and are found qualified will be eligible to respond to the TO/WO Solicitation Process.

The District currently anticipates that one or more contracts will result from this TO/WO’s issued under IRFQ No. 1102. The contract(s) will have a maximum term of twelve (12) months. The value of the contract(s) is not expected to exceed a “rough order of magnitude” aggregate value of \$250,000 for the full term of the contract(s).

In the event that the District should issue a subsequent RFP or RFQ for the same services, Respondents to this IRFQ are hereby notified that successful Respondents in the subsequent RFP/RFQ will receive no further TO/WO’s contracts issued under this IRFQ No. 1102.

STATEMENT OF QUALIFICATION DUE DATE AND SUBMISSION INSTRUCTIONS

Complete submission packages must be received at the District Office identified below, in one or more sealed envelopes, by **2:00 p.m., Pacific Standard Time** on Friday, **October 26, 2012**. The only acceptable evidence to establish the time of receipt is the date/time stamp imprinted upon the proposal package by the date/time recorder at the District location shown below.

Interested firms should submit one (1) original hard copy and six (6) copies on CD-ROM of your evidence of qualification to the following address:

Los Angeles Unified School District
 333 S. Beaudry Ave., 22nd Floor, Cubicle 22-208-07
 Los Angeles, CA 90017
 Attention: Lilia Muñoz

EVALUATION CRITERIA

Statement of Qualification (SOQ) will be evaluated according to the following process. Firms failing to meet the Minimum Qualifications will not be subjected to any further consideration.

The District reserves the right to reject a firm being non-responsive regardless of the stage of the procurement process, if there is a failure to successfully negotiate price/fees, or a failure to satisfy any of the requirements necessary to do business with the District.

MINIMUM QUALIFICATIONS

Respondents must meet the minimum qualification requirements listed below at the time of the IRFQ submittal:

MINIMUM QUALIFICATION REQUIREMENTS & SUBMITTAL REQUIREMENTS

	Pre-qualification Criteria	Items to be included in the Submittal Package
<i>Note: In order to be considered "qualified," an applicant must satisfy ALL pre-qualification criteria.</i>		
1	Firm must possess a minimum of five (5) years of experience in delivering the qualifying services (see below) to major organizations of at least 10,000 employees. Experience has to be within the past 5 years and reflect completed projects. <ul style="list-style-type: none"> • Network Engineering and Configuration Services 	<ul style="list-style-type: none"> • - Specific experience or examples must be provided, including verifiable references, and the contract number of record that is related to the listed experiences. Include in statement QS-1, described below.
2	Firm must possess a minimum of five (5) years of experience in delivering the qualifying services to government agencies and/or K-12 learning institutions. Experience has to be within the past 5 years and reflect completed projects.	<ul style="list-style-type: none"> • - Specific experience or examples must be provided, including verifiable references, and the contract number of record that is related to the listed experiences. Include in statement QS-1, described below.
3	The proposed Single Point of Contact (POC) must have a minimum of five (5) years of experience managing technical staffing initiatives for the listed qualifying services.	<ul style="list-style-type: none"> • - Named POC must submit confirming evidence of experience in the form of resumes, certifications, etc. Include in statement QS-2, described below.

4	The Contractor shall have adequate staffing with the required experience and skillset as listed in the Statement of Work. For each qualifying service, a minimum of two resources must be available to begin work for the District within a 14-day period once the contract(s) is/are fully executed.	<ul style="list-style-type: none"> -Named resource must submit confirming evidence of experience and skillset in the form of resumes, certifications, etc.
5	The Contractor shall agree to the District's maximum not-to-exceed fully burdened rate* as follows: <ul style="list-style-type: none"> • Network Architect: \$138.00/hr. • Project Coordinator: \$89.00/hr. • Infrastructure Network Engineer: \$92.00/hr. 	<ul style="list-style-type: none"> -Written confirmation that Contractor agrees to the rate ceiling.
6	The Contractor shall ensure that all staff working in District sites is fingerprinted and TB tested at Contractor's expense.	<ul style="list-style-type: none"> -The Contractor will provide a written plan that describes how this requirement will be met and maintained.
7	The Contractor must accept all Master Services Agreement Terms and Conditions including Insurance requirements as stated in this IRFQ-1102	<ul style="list-style-type: none"> -Written confirmation that the Contractor accepts the terms, conditions, and insurance requirements.

*Fully burdened rates includes (in addition to direct labor) fringe benefit, overhead, mark-ups, expenses, travel, facilities, parking, and material, etc.

EVALUATION CRITERIA

The respondent shall be evaluated on the extent to which SOQ's meet the following criteria below:

A. Qualifications and Experience of Firm	35 Points
B. Qualifications and Experience of Personnel	45 Points
C. Work Plan/project Approach (Consultant Recruiting and Retaining)	<u>20 Points</u>
<i>Total Points</i>	<i>100 Points</i>
=====	=====

Upon completion of the evaluation, the District will have the right to negotiate a professional services agreement to qualified firms.

BASIS OF AWARD

Subject to the provisions herein, Contract award(s) will be made to the "highest scored" SOQ, with the appropriate consideration given to the evaluation factors stated herein.

SOQ SUBMITTAL REQUIREMENTS

SOQs omitting any of the required submittal items may be deemed non-responsive, and may be removed from any further consideration. SOQs shall have the following components and shall be laid out in the format exactly as shown here:

1. SOQ Letter

Respondent shall complete the attached Letter/Certificate of Acceptance Form (Attachment 3).

2. Cover Letter

The cover letter shall not exceed three (3) single pages and shall be signed by an authorized representative of the proposing firm. The summary shall cover the following:

- a. Briefly summarize your understanding of the requested services.
- b. Respondent shall acknowledge acceptance of all terms and conditions of the District's Professional Services Agreement terms and conditions (Attachment 4) and insurance requirements (Attachment 2).
- c. Respondent shall (1) indicate in the cover letter, SPECIFIC compliance to the requirements as listed in the minimum qualification requirements section and (2) indicate which requirement(s), if any, Respondent may not comply with. In addition, Respondent shall specify how compliance was achieved and submit documentation to validate that experience. Please reference page and section number of your proposal to validate compliance.
- d. Respondent shall nominate as reference, three (3) firms that it provided the type of service required in the SOW. Each reference shall include the name, telephone number, and email address of a contact person who can verify the reference.

3. Evaluation Criteria Submittals

A. Qualifications and Experience of Firm (35 points maximum)

The experience and qualifications of firm shall be itemized in a separate Qualification Statement to be labeled in the SOQ as "QS-1".

- The proposed Single Point of Contact (POC) must have a minimum of five (5) years of experience managing technical staffing initiatives for the listed qualifying services.
- The Respondent shall have adequate staffing with the required experience and skillset as listed in the Statement of Work.
- For each qualifying service, a minimum of two resources must be available to begin work for the District within a 14-day period once the contract(s) are fully executed.
- Organizational-Depth and potential resources that would devote to providing the necessary support to LAUSD projects.

B. Qualifications and Experience of Personnel (40 points maximum)

The proposed personnel's experience and qualifications shall be itemized in a separate Qualification Statement to be labeled as "QS-2". The experience and qualifications of proposed personnel shall be supported by current résumés supporting the following areas:

- Organizational-Depth and potential resources that would devote to providing the necessary support to LAUSD projects.
- Key Personnel possess the professional experience necessary to provide continuous service to LAUSD.

C. Work Plan/project Approach - Consultant Recruiting and retaining (20 points maximum)

The response to Capability of Performing the Work shall be itemized in a separate Qualification Statement to be labeled “QS-3”, and shall cover, at a minimum, the following areas:

- Current/Past Clients – Verifiable examples of size and complexity of the client organizations that the Respondent has worked with/for.
- Projects of Comparable Scale – Verifiable individual projects that are similar to the work required by the District.
- Projects in Comparable Industry Sector – Verifiable past experiences with other organizations in the Public or Private sectors of comparable complexity.
- References from Other Clients – Verifiable references that validate the Respondent’s professionalism and expertise.

4. Certificate of Insurance

Provide proof of insurance compliant to the District’s insurance requirements (Attachment 2) or a statement certifying that, if awarded a contract, your firm will obtain the required insurance coverage.

5. SBE Compliance

Respondents should use their best efforts to comply with the District’s Small Business Enterprises (SBE) Utilization Program’s 25% goal. Respondents are required to submit the SBE Utilization Report that is in Attachment 5. See Attachment 5 to this IRFQ for additional information regarding the District’s SBE Utilization Program.

6. Certification of Compliance with LAUSD Ethics and Integrity Standards

Respondents shall accomplish and submit the Certification of Compliance with LAUSD Ethics and Integrity Standards form (Attachment 6).

PROPOSER QUESTIONS

All questions raised PRIOR TO THE PROPOSAL DUE DATE of October 26, 2012, with the exception of Small Business Enterprise (SBE) issues shall be in writing. All communications shall be directed to the Contract Analyst listed below. Verbal inquires shall not be accepted.

Los Angeles Unified School District
333 South Beaudry Avenue, 22nd Floor
Los Angeles, California 90017
IRFQ No. 1102 Specialized Support Services
Attention: Lilia Muñoz, Contract Administration Analyst
Phone: (213) 241-8787

Final questions regarding this Procurement must be received by the close of business on Monday, October 15, 2012. Questions shall be in writing and submitted online through the District's Vendor Website at <http://psd/lausd.net/vendors>. If the respondent submits more than five (5) questions, the respondent shall submit the questions in a word format document as an attachment and e-mail or fax to the attention of the Contract Analyst at (213) 241-5845 or e-mailed at lilia.munoz@lausd.net.

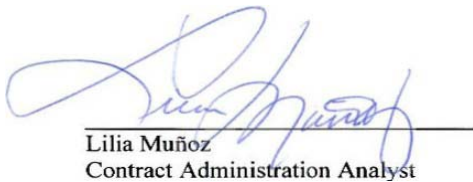
COMMUNICATIONS WITH THE DISTRICT

All communications regarding this IRFQ between potential Respondents and the staff of the DISTRICT and consultants engaged by the DISTRICT shall be addressed only to the Contract Analysts identified in the Request for Qualifications letter. At no time "PRIOR" to the DISTRICT'S Notice of Award shall Respondent(s) contact DISTRICT officials or personnel regarding this IRFQ or any contract(s) to be awarded in response hereto. To do so may subject the Respondent to disqualification.

The District appreciates your interest in this procurement.

Sincerely,

Los Angeles Unified School District



Lilia Muñoz
Contract Administration Analyst

Attachments:

1. Project Overview and Statement of Work (SOW)
2. LAUSD Insurance Requirements
3. Letter/Certificate of Acceptance
4. Professional Services Agreement Terms and Conditions
5. SBE Utilization
6. Certification of Compliance with LAUSD Ethics and Integrity Standards

ATTACHMENT 1

PROJECT OVERVIEW AND STATEMENT OF WORK

I. GENERAL OVERVIEW / BACKGROUND

NETWORK ENGINEERING AND CONFIGURATION SERVICES

The Los Angeles Unified School District requires network engineering and architectural design services to observe, test, and/or expedite completion of Local Area Network and telecommunications projects within schedule, quality standards, and budget on an as-needed basis. In the case of projects executed at existing school sites, planning of the project in such a manner that allows the school sites to function throughout construction is critical. Contractor shall provide the resources on demand to the District.

1. Network Engineering and Configuration Services

1.1. Configuration and Infrastructure Network Engineers

Network Engineer(s) (NE) provided under this service may direct and participate in the installation, functioning, configuration, and other related tasks and services that ensure fully functioning Local Area Networks at all existing and new school site additions projects.

Contractor shall provide the following tasks but are not limited to:

- Provide weekly updates and variance reports.
- Maintain a daily log of contractor field activities.
- Provide technical guidance and direction in all areas of analysis and programming including specifications, coding, testing, debugging, quality assurance, and documentation.
- Analyze technical problems and recommend solutions.
- Participate in setting near-, mid-, and long-term objectives and goals to ensure that LAUSD IT strategic planning and implementation initiatives are met.
- Identify, evaluate, and assist LAUSD in the selection of hardware, software, and services to meet specific requirements (screening, selection, and due diligence).
- Assist the District in evaluating bids for technical responsiveness and the understanding of the computer, data, and telecommunication systems requirements.
- Provide services to the LAUSD Information Technology Division (ITD) as a member of the Design & Quality Assurance team insuring full implementation of network and telecommunications systems at LAUSD school sites.

- Prepare and present status reports to the Director of IT Design & Quality Assurance, and/or designee as required for program reporting, or as may be required for specific project or program issues.
- Maintain complete project files using District required software and format.
- Coordinate approvals and sign-offs as required by appropriate LAUSD personnel.
- Review and become fully versed in the District's specifications and Contractor Scopes of Work related to District computer, data, telecommunication, PBX, intercommunication, public address, and intrusion systems.
- Manage execution of technical standard procedures and processes as required by the Director of IT Design & Quality Assurance ITD or designee.
- Conduct site surveys and preparation of schematic diagrams for recommended and efficient installations.
- Perform site walks with the designer to review the physical plant and review designer provided drawings and schedule and review submissions for completeness, accuracy, design efficiency and adherence to current District specifications. Document problems in writing.
- Review computer, data, and telecommunication systems designs to recommend alternative solutions whenever design details affect construction feasibility or schedule, without assuming any of the project A-E's responsibilities or liabilities for design.
- Attend jobsite meetings with the contractor to assist the project A-E, the Project Manager and LAUSD Inspectors to discuss and resolve field issues related to the installation of computer, data, and telecommunication systems.
- Respond to Contractor submitted change or information requests and review them to ensure there is no impact to the computer, data, telecommunication, PBX, intercommunication, public address, and intrusion systems designs and specifications.
- Track and document all change requests that affect the computer, data, PBX, intercommunication, public address, intrusion, and telecommunication systems at the school site.
- Review and document any existing computer, data, PBX, intercommunication, public address, intrusion, and telecommunication systems infrastructure at school sites.
- Review all the locations and cable pathways to ensure that the installation is compliant with District and Industry specifications. Additionally, the engineer will note the status of the required electrical power for all active components for computer, data, and telecommunication systems during this review.
- Compare the project design plans to the installation to assess deviations and ensure redlines are up to date.
- Identify and document equipment connectivity requirements on CLDF, LDF, IDF, and MDF basis for each school site for subsequent ITD

material procurement. This list includes major electronics as well as associated patch cords.

- Review installation activities, and note compliance or non-compliance, as appropriate, to vendor site-specific specification deviation requests. During the on-site inspections, activities that may warrant the attention of the construction/inspection team will be brought to their attention for their review and action, as required.
- Monitor the electronics installation process, including the physical counts of equipment and the configuration of the equipment.
- Monitor the entire cable pulling process to ensure proper installation techniques are used and limitations are observed. This monitoring includes the fiber and copper installation and termination process along with the subsequent vendor testing of the installation.
- Review contractor submitted test results for completeness, compliance, and accuracy.
- Ensure the existing and new electronics are inventoried, documented, and checked.
- Coordinate steps, tasks, and probable timing for the actual computer, data, PBX, intercommunication, public address, intrusion, and telecommunication systems cutover.
- Perform a thorough walk-through with the contractor to ensure that the site is ready for formal acceptance testing and subsequent systems cutover.
- Witness the acceptance testing of the cable plant.
- Review final documentation and submittals to ensure consistency with the verified red lined drawings.
- Ensure contractor tested all multi-mode and single-mode fiber backbone cabling. Including proper labeling and electronic testing to assess EIA/TIA 568B length and attenuation for the fiber and EIA/TIE568B parameters for copper cabling.
- Conduct site surveys and preparation of schematic diagrams for recommended and efficient installations.
- Unpack equipment and peripheral devices, and disposing of packing materials.
- Install equipment and associated peripheral devices in locations designated by the school or office.
- De-installation or removal of equipment and associated peripheral devices.
- Upgrade equipment and associated peripheral devices (see above).
- Repair equipment and associated peripheral devices (see above).
- Connect and configure server to uninterruptible power supply, and switch/hub.
- Connect and configure workstation to hub/switch.
- Connect and configure switches, WLAN access points and bridges, repeaters, bridges, routers, Brouters, gateways, or CSU/DSU's.
- Migrate equipment and associated peripheral devices to other/newer equipment.
- Relocate and rearrange furniture for installation of equipment and associated peripheral devices.

- Install software and associated peripheral device drivers in equipment, at locations designated by the school or office.
- De-installation or removal of software and associated peripheral device drivers.
- Upgrade software and associated peripheral device drivers.
- Repair software and associated peripheral device drivers.
- Migrate software and associated peripheral device drivers to a later release.
- Implement new or additional IP addresses.
- Create trunking services/VLANs.
- Assign ports to appropriate VLAN.
- Port configuration.
- Test DHCP.
- Configure host names in all networking equipment.
- Document network configurations, including equipment locations, host names, serial numbers, IP addresses, etc.
- Assist in the preparation of punch lists.
- In addition to the above requirements, the contractor will provide the following equipment for Network Engineer positions:
 - Infrared laser thermometer.

1.2. Network Architect

Network Architect(s) provided under this service may lead or participate in the development of architectures, specification, and solutions in one or more of the following domains;

- Convergence
- Data Network
- Data Center
- Information Security Systems
- Local Area Network
- Network Management and Services
- Wide Area Network
- Radio Systems
- Voice, Video, and Data Convergence
- Unified Communication

Contractor shall provide the following tasks but are not limited to:

- Provide weekly updates and variance reports.
- Create or update IT Infrastructure Strategic and Architectural plans
- Create or update District voice, video and data solutions and specifications, including but not limited to:
 - Convergence
 - Data Network
 - Data Center

- Information Security Systems
 - Local Area Network
 - Network Management and Services
 - Wide Area Network
 - Radio Systems
 - Voice, Video, and Data Convergence
 - Unified Communication
- Provide technical guidance, research, and documentation to propose or validate comprehensive solutions that meet the minimum District requirements.
 - Analyze technical problems and recommend solutions.
 - Evaluate potential school based or school shared core solutions and make recommendations of viable options to be considered for projects.
 - Act as a technical resource, which may include identifying, evaluating, and selecting hardware, software, services, and solutions that meet specific requirements.
 - Assist the District in evaluating bids for technical responsiveness and comprehensiveness to ensure solutions meet full convergence or voice, video and data systems requirements.
 - Prepare and present status reports.
 - Maintain complete project files using District required software and format.
 - Review and become fully versed in the District's specifications and Contractor Scopes of Work related to District computer, data, and voice systems.
 - Review requirements and specifications and make recommendations for changes including but not limited to reviewing updated specifications and system designs.
 - Review current school voice solution upgrade projects to ensure scope and specifications provide for new IP based converged solutions.
 - Provide visual presentations defining architectures and strategic direction to executive and high level District staff
 - Provide other additional network engineering and architecture services as required.

1.3. Project Coordinator

Project Coordinator(s) provided under this service coordinates and participates in the delivery, installation, functional performance testing and other related tasks of voice, video and data solutions at all existing and new school site projects.

Contractor shall provide the following tasks but are not limited to:

- Facilitate the installation, configuration and testing of all building automation services, including but not limited to parking gate, elevator proximity cards and energy management system.

- Lead the installation of computer and library labs and ensure that all configuration of networking equipment is completed.
- Assist in the provisioning of additional phone lines, equipment, and services as required.
- Coordinate the installation and configuration of additional electrical and data outlets in offices and workrooms.
- Review work products at milestones for time, cost, and scope.
- Manage all technical communications with the project team.
- Provide technical guidance, research, and documentation to ensure comprehensive solutions that meet the minimum District requirements.
- Participate in developing and reporting project status to LAUSD project sponsors and steering committees.
- Prepare and present status reports as required for program reporting, or as may be required for specific project or program issues.
- Coordinate the execution of technical standard procedures and processes as required by the Director of IT Design & Quality Assurance, and/or designee.
- Attend jobsite meetings with the contractor to assist the project A-E and District staff to discuss and resolve field issues related to the installation of computer, data, and telecommunication systems.
- Provide weekly updates and variance reports.
- Maintain complete project files using District required software and format.
- Review and become fully versed in the District's specifications and Contractor Scopes of Work related to District computer, data, and voice systems.
- Provide other additional project coordination services as required.

2. PERFORMANCE REVIEW

A performance review will be conducted by the District to ensure services are performed satisfactorily by the contractor. Contractor will be notified by the District of their performance. If the review is unsatisfactory, the contractor will be required to submit a corrective action plan to address the deficiencies.

3. DELIVERABLES

Deliverables shall be defined in the issuance of the Task Order.

ATTACHMENT 2

INSURANCE REQUIREMENTS

Contractor shall, at his, her, or its sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, to cover any claims, damages, liabilities, costs and expenses (including legal counsel fees) arising out of or in connection with Contractor's fulfillment of any of its obligations under this Agreement or either party's use of the Work or any component or part thereof:

- A. Commercial General Liability Insurance, including both bodily injury and property damage, with limits as follows:

- \$1,000,000 per occurrence
- \$ 100,000 fire damage
- \$ 5,000 med expenses
- \$1,000,000 personal & adv. injury
- \$3,000,000 general aggregate
- \$3,000,000 products/completed operations aggregate

- B. Business Auto Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit of no less than \$1 million per occurrence. If no owned autos, then non-owned/hired coverage can be accepted.
- C. Workers' Compensation and Employers Liability Insurance in a form and amount covering Contractor's full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws.

Part A – Statutory Limits

Part B - \$1,000,000/\$1,000,000/\$1,000,000 Employers Liability

Sole proprietors with no employees are exempt from providing Workers' Compensation and Employers Liability Insurance, but must provide a signed Workers' Compensation Statement.

- D. Except as set forth in subsection (e) below, Errors & Omissions (Professional Liability) coverage, when applicable, with limits of \$1,000,000 per occurrence and \$1,000,000 in the aggregate.
- E. For any Work Order that exceeds or is reasonably expected to exceed \$500,000 in Charges, Contractor's Errors & Omissions (Professional Liability) Insurance limits will be \$2,000,000 per occurrence under Section 17.2(a)(i) above and \$5,000,000 general aggregate under Section 17.2(a)(v) above, and provided, further, that for any Work Order that exceeds or is reasonably expected to exceed \$1,000,000 in Charges, Contractor's Errors & Omissions (Professional Liability) Insurance limits will be \$5,000,000 per occurrence under Section 17.2(a)(v)

above and \$10,000,000 general aggregate under Section 17.2(a)(v) above.

- F. As long as Contractor's total insurance coverage amounts satisfy all of the requirements of this Section 17.2, Contractor may use a combination of general and excess liability policies. In addition, Contractor may obtain the insurance necessary to satisfy the requirements of this Section 17.2 from an insurer that is not licensed in California only with the prior written approval of the District, which the District may withhold in its sole discretion.

ATTACHMENT 3

LETTER/CERTIFICATE OF ACCEPTANCE

RESPONDENT _____
D-U-N-S Number: (if known) _____

In response to Informal Request for Qualifications (IRFQ) #1102, we the undersigned hereby declare that we have carefully read and examined the IRFQ documents, accept the LAUSD Terms and Conditions and Contractor Code of Conduct, and hereby agree to perform the Statement of Work as required in the Contract.

We understand that the District reserves the right to:

1. Reject any or all of the SOQ;
2. Issue subsequent IRFQ;
3. Cancel the entire IRFQ;
4. Remedy errors in the IRFQ;
5. Reduce the scope of work for a reasonable amount if in the best interest and at the sole discretion of the District;
6. Appoint evaluation committees to review Qualifications;
7. Seek the assistance of outside technical experts to review Qualifications;
8. Approve or disapprove the use of particular subcontractors and suppliers;
9. Establish a short list of eligible for discussions/clarifications after review of written Proposals;
10. Negotiate with any, all, or none of the Respondents;
11. Solicit best and final offers (BAFO) from all or some of the Respondents;
12. Award a contract to one or more Respondents;
13. Accept other than the lowest priced SOQ;
14. Waive informalities and irregularities in SOQ;
15. Award a Contract without discussions or negotiations;
16. Disqualify the SOQ(s) upon evidence of collusion with intent to defraud or other illegal practices on the part of the Respondent(s);

This IRFQ does not commit the District to enter into a Contract nor does it obligate the District to pay for any costs incurred in the preparation and submission of proposals or in anticipation of a Contract.

This Contract is not exclusive. The District expressly reserves the right to contract for performance of services such as those described herein through other Contractors.

If recommended for Contract award, the undersigned agrees to execute a Contract that will be prepared by the DISTRICT for execution, within 10 calendar days following Notification of Award. It is understood that the recommendation for contract award will not be placed on the agenda for consideration by the Board of Education, should Board approval be required, until the DISTRICT has received the executed contract.

Respondent represents that the following person is authorized to enter into a contract with the DISTRICT in connection with this IRFQ:

_____ (Name)
_____ (Title) _____ (Phone)

Email Address: _____

The undersigned certifies that it has examined and is fully familiar with all of the provisions of the IRFQ Documents and Addenda. The undersigned hereby agrees that the DISTRICT will not be responsible for any errors or omissions in these IRFQ Documents and Addenda.

BY:

(Signature) _____ (Email)

(Type or Print Name) _____ (Phone)

(Title) _____ (Fax)

(Address)

ATTACHMENT 4
MASTER SERVICES AGREEMENT
FOR
INFORMATION TECHNOLOGY SERVICE AND SUPPORT
BETWEEN
THE LOS ANGELES UNIFIED SCHOOL DISTRICT
AND

(name) _____
(address) _____

Contract No.: _____

Initial Period of Performance: _____, 2012 through _____, 2013

Options: This Master Service Agreement includes an initial twelve (12) months period and four (4) one-year options to continue services for additional periods at the election of the District. The District may exercise the options by notice to Contractor no later than thirty (30) days prior to the expiration of the then-current term..

Contractor Service Area(s) and Skill-set Categories: Pursuant to Schedule A of this Agreement:

IT TECHNICAL SUPPORT SERVICES

Contract Type: Master Services Agreement

Work Order Type: Time and Material (T&M)

Not to Exceed Amount: \$

**MASTER INFORMATION TECHNOLOGY
SERVICE AND SUPPORT AGREEMENT**

THIS MASTER INFORMATION TECHNOLOGY SERVICE AND SUPPORT AGREEMENT (this “Agreement”) is made and entered into as of the 12th day of January, 2011, between The Los Angeles Unified School District (“LAUSD” or the “District”), and the entity named on the cover page to this Agreement and identified as “Contractor” by the parties’ signatures below (“Contractor”).

1. BACKGROUND AND OBJECTIVES

1.1 Background

- (a) District anticipates entering into an indefinite number of contracts for the future provision of services for IT technical services in the SAP support service area.: LAUSD anticipates contracting with a variety of potential service providers for such services on a nonexclusive basis.
- (b) This Agreement sets forth the general terms and conditions governing the contractual relationship between LAUSD and Contractor. Work performed under this Agreement will be pursuant to specific terms and conditions set forth in one or more Work Orders executed by the parties hereunder.
- (c) Contractor is an established provider of services in the Contractor Service Area(s) described below. Contractor represents that it has, and will have, the skills, qualifications, expertise and experience necessary to perform and manage the services described in each Work Order in an efficient, cost-effective manner with a high degree of quality and responsiveness, and that it has performed and continues to perform similar services for other customers in such manner.

1.2 Objectives

LAUSD’s objectives in entering into this Agreement include obtaining:

- (a) high quality services in the Contractor Service Area(s) provided in a cost-effective manner;
- (b) a flexible relationship with Contractor under which Contractor will be highly responsive to LAUSD requirements as LAUSD may establish them from time to time; and
- (c) consistent and effective management of the relationship between Contractor and LAUSD.

2. DEFINITIONS

2.1 Certain Definitions

As used in this Agreement and the Schedules, capitalized terms will have the meanings set forth in this Article 2.

- (a) “Affiliate” means any entity controlled by, controlling, or under common control with, a party, where “control” means the possession of the power, directly or indirectly, to direct the management and policies of a party whether through the ownership of voting securities, contract or otherwise.

- (b) “Charges” means the amounts payable to Contractor by LAUSD as payment in full for Services provided under each Work Order. All Charges will be in U.S. Dollars.
- (c) “Change Order” means an amendment to any Work Order executed by a duly authorized representative of Contractor and by District’s Chief Information Officer (or by a District officer authorized by the Chief Information Officer to execute Change Orders in his or her absence).
- (d) “Confidential Information” means any and all information of LAUSD and/or LAUSD’s employees or students disclosed or otherwise made available to or learned by Contractor under any Work Order or Work Order Request (as that term is defined in Section 6.1), which is designated as “confidential” or “proprietary” or which, under all of the circumstances, ought reasonably to be treated as confidential, and includes, but is not limited to, LAUSD Data, all LAUSD student records and personnel records, and the minutes of any and all meetings between Contractor and LAUSD regarding this Agreement or the Services. Except to the extent that LAUSD is nonetheless required to maintain applicable information or data as confidential, Confidential Information excludes: (i) information independently developed by Contractor for a party other than LAUSD without the use of confidential information of LAUSD; (ii) information that is or becomes publicly known through no wrongful act of Contractor or of any third party; and (iii) any information obtained by Contractor without an obligation of confidentiality from a third party who did not receive it directly or indirectly from LAUSD.
- (e) “Contractor Commercial Software” means any software that is provided as a Deliverable or embedded in or otherwise required to use or operate any Deliverable and is commercially available off-the-shelf software owned by Contractor or a third party, which Contractor makes generally available for licensing by end users and which does not result, in whole or in part, from development or customization efforts under this Agreement.
- (f) “Contractor Customized Software” means any software that is provided as a Deliverable or embedded in or otherwise required to use or operate any Deliverable in which Contractor or third parties have all right, title, and interest (including ownership of copyright), but which is customized or otherwise modified by Contractor pursuant to the terms of an applicable Work Order for use by LAUSD. “Customizations” means those features, functions, interfaces or other aspects of the Contractor Customized Software that have been specifically developed or customized for District.
- (g) “Contractor Personnel” means Contractor’s employees and subcontractors (as well as any employees or subcontractors of those subcontractors) performing the Services.
- (h) “Contractor Service Area” means the contractor service area(s) identified on the cover page attached hereto, as defined more specifically in Schedule A.
- (i) “Deliverable” means a deliverable to be delivered or provided by Contractor under an applicable Work Order as specified therein, and may be Contractor Commercial Software, Contractor Customized Software, Work Product, Documentation, Code Documentation or any other items identified for delivery in the applicable Work Order. “System Deliverables” are those software and software-related deliverables that Contractor will deliver to District under this Agreement and that require installation or operation in connection with or following such delivery.

- (j) “District” and “LAUSD” mean the Los Angeles Unified School District, each and every subdivision or unit thereof constituted now and in the future (including, if applicable, schools and or territories within Los Angeles County, California not currently serviced by the Los Angeles Unified School District, charter schools in Los Angeles County, and other entities with whom the Los Angeles Unified School District contracts to provide educational and education-related services to students resident in Los Angeles County), and each and every entity succeeding in the future to the responsibility of the Los Angeles Unified School District (including, if applicable, such other entities described in this definition) to provide educational services to students resident in Los Angeles County at any level of education.
- (k) “Documentation” means all operator guides, operating procedures (including any special year-end procedures), user manuals, training aides, installation guides, testing criteria, functional and detailed specifications and other technical documents with respect to a Deliverable or any portion or component thereof. “Code Documentation” is a specific type of Documentation (sometimes described as “internal software code”) comprising the written text that accompanies computer software source code, describing the functionality incorporated in the source code, its data structure, algorithms and application program interfaces, and explaining how the computer software performs its functions.
- (l) “Final Criteria” has the meaning given in Section 7.1.
- (m) “Final Deliverable” means all related Deliverables under a Work Order or a series of related Work Orders, where such Deliverables are intended or required to operate as a system or otherwise to perform interrelated functions.
- (n) “Initial Acceptance Period” has the meaning given in Section 7.2.
- (o) “LAUSD Data” means information (regardless of format) entered into software or equipment by or on behalf of LAUSD, as well as information derived from this information.
- (p) “LAUSD Information” means all information, in any form, furnished or made available directly or indirectly to Contractor by LAUSD or otherwise obtained by Contractor from LAUSD in connection with a Work Order or Work Order Request (as that term is defined in Section 6.1), including: (i) all information of LAUSD or any LAUSD Affiliates to which Contractor has had or will have access, whether in oral, written, graphic or machine-readable form; (ii) all Work Product; and (iii) all Confidential Information.
- (q) “LAUSD Information Security Policies” means the written security policies and procedures that are in effect during the Term for the security of LAUSD facilities and LAUSD Information, as such, policies may be modified, amended or replaced from time to time and provided to Contractor.
- (r) “LAUSD Software” means software owned by LAUSD and includes software developed by LAUSD internally and software developed by third parties for ownership by LAUSD.
- (s) “Pass-Through Expenses” means reasonable and actual out-of-pocket expenses incurred by Contractor for equipment, materials, supplies or other Services provided to LAUSD, but not including Contractor’s overhead costs, administrative expenses or other mark-ups.

- (t) “Schedule” means any schedule, exhibit, agreement or other document either (i) attached to this Agreement; (ii) attached to any Work Order; or (iii) executed by the parties at any time hereafter, if such document states that it is a schedule or exhibit to this Agreement or any Work Order.
- (u) “Services” means services within the Contractor Service Area to be performed under a Work Order.
- (v) “Term” means the initial term of this Agreement described in Section 4.1 and any and all renewal terms entered into pursuant to Section 4.2.
- (w) “Term of Nondisclosure” means, with respect to any Confidential Information, a period of five years from the last date of disclosure of any such Confidential Information, or such longer time as may be required by law. Contractor understands and agrees that, for certain kinds of Confidential Information (such as, by way of example only, LAUSD student records and student information protected by FERPA and HIPAA), the Term of Nondisclosure may be a period of time with no expiration date.
- (x) “Virus” means any computer virus or other “contaminant,” including any codes or instructions that are designed to (or permit or enable anyone to) inappropriately access, modify, delete, damage or disable any aspect of the LAUSD information technology environment.
- (y) “Work Order” means a written agreement between LAUSD and Contractor implementing specific services and identifying certain deliverables to be provided by Contractor under the terms of this Agreement. A form of Work Order is attached hereto as Schedule D.
- (z) “Work Product” means any tangible or intangible work product that is a literary or other work of authorship made specifically for and delivered to District by Contractor as part of the Services, either solely or jointly with others, including by independent contractors, Contractor’s employees or agents, during the course of or in relation to the performance of this Agreement. Work Product shall include Documentation, where such Documentation is made specifically for District. Notwithstanding anything herein to the contrary, nothing shall waive or otherwise impair District’s, Contractor’s or a third-party’s ownership of or other rights in any portions of Work Product, data, information or other intellectual capital, developed or acquired independent of this Agreement or any applicable Work Order, or derivatives thereof (collectively, the “Pre-Existing Items”). No party shall gain any ownership rights in the other party’s Pre-Existing Items or any derivative works thereof.

2.2 Other Definitions

To the extent not defined above, other capitalized terms used in this Agreement, the Schedules and the Work Orders will be defined in the context in which they are used and have the meanings there indicated.

3. MASTER AGREEMENT - GENERAL

3.1 Agreement

This Agreement contains general contractual terms for Services to be provided to LAUSD by Contractor under Work Orders to be prepared, negotiated and executed by LAUSD and Contractor pursuant to the terms of this Agreement. Separate Work Orders will be entered into for discrete Services. Each Work Order shall incorporate by reference and be subject to the terms of this Agreement including all of its Schedules, and shall describe the

Services covered by the Work Order, the provisions for payment, the terms for performance, applicable service levels, and other provisions that are specific to the Work Order.

3.2 Interpretation and Precedence

This Agreement, the Schedules attached hereto, the Work Orders and any Schedules attached thereto are to be interpreted so that all of the provisions are given as full effect as possible. In the event of a conflict between these documents, the following order of precedence will apply:

- (a) This Agreement;
- (b) any Schedule to this Agreement;
- (c) the Work Order (provided, however, that the Work Order may contain an exception to or deviation from this Agreement with respect to the applicable Work Order only if specifically agreed upon in writing by District's Chief Information Officer); and
- (d) any Schedule to the Work Order.

3.3 No Implied Agreement; Non-exclusivity

- (a) Nothing in this Agreement obligates LAUSD or Contractor to enter into any Work Order.
- (b) Except as expressly agreed upon under a Work Order, nothing in this Agreement requires LAUSD to purchase products or Services from Contractor. LAUSD may request information, proposals, or competitive bids from third parties on the same or different terms than as provided in this Agreement.
- (c) Contractor may provide products and services to any other parties on terms that are the same as or different than those provided herein, provided that Contractor complies with all of its obligations of confidentiality contained herein.
- (d) Except for express agreement for the purchase of specified amounts of Services set forth in a Work Order, LAUSD may obtain services similar to, identical to, or in addition to or outside the scope of the Services at any time during the Term from a third party or provide them internally. LAUSD shall have no obligation to obtain from Contractor any services that are not included within the definition of Services as described in a specific Work Order. Any Services that are limited to specific locations under a Work Order apply only to such locations.
- (e) Contractor acknowledges that LAUSD may be considering, and may in the future consider, the development and implementation of ideas, products and technologies similar to or the same as those that may be owned or controlled by Contractor. Nothing in this Agreement will prevent LAUSD from pursuing any such ideas or pursuing the development and implementation of products or technologies similar to or related to Contractor's, either internally or through third parties.

4. TERM

4.1 Agreement Term

The initial term of this Agreement shall begin as of January 1, 2013, and shall continue through December 31, 2013, unless terminated or extended pursuant to the terms of this Agreement.

4.2 Renewal

This Agreement includes an initial two (2) year period, and three (3), one-year options to renew this Agreement, at the election of the District. The District may exercise the option by delivering a written amendment to this Agreement at least thirty (30) calendar days before expiration of the then-current term. All of the terms of this Agreement and the applicable Work Orders shall continue to apply without change during any renewal period.

4.3 Work Order Term

The term of each Work Order shall be as stated in such Work Order but in no event shall a Work Order term extend beyond the Term unless District has specifically agreed in writing. If this Agreement is terminated for any reason, each Work Order hereunder shall also terminate unless District has specifically directed otherwise in writing.

5. SERVICES - GENERAL

5.1 General

The Services to be provided under this Agreement are limited to those within the Contractor Service Area and will only be performed subject to a Work Order approved by District.

5.2 Resources

Except as otherwise expressly provided in this Agreement or a Work Order, Contractor will be responsible for providing all facilities, personnel and other resources necessary to provide the Services.

5.3 RESERVED

5.4 Licenses and Permits

Contractor will be responsible for obtaining, at Contractor's cost, all applicable licenses, authorizations and permits required of Contractor to perform this Agreement. Contractor will pay all fees and taxes associated with such licenses, authorizations and permits.

5.5 RESERVED

5.6 LAUSD Expense Guidelines, Travel Policies

Contractor will perform the Services in accordance with the LAUSD Expense Guidelines and Travel Policies attached as Schedule B to this Agreement, as such, policies are created or modified by LAUSD from time to time and provided to Contractor.

5.7 Equal Employment Opportunity

It is the policy of District that, in connection with all work performed under District agreements, there shall be no discrimination against any employee or applicant for employment because of race, color, religious creed, national origin, ancestry, marital status, sex, sexual orientation, age, disability or medical condition and therefore Contractor agrees to comply with applicable federal and state laws in performance of the Services. In addition, Contractor agrees to require like compliance by all subcontractors performing Services.

5.8 Certification Regarding Debarment, Suspension or Ineligibility for Award.

- (a) By signing this Agreement, Contractor certifies that Contractor and any of its principals:
 - (i) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; and
 - (ii) Have not, within the three-year period preceding the Effective Date, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.
- (b) It shall be a material breach of this Agreement if, at any time during the Term hereof, Contractor shall be: debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; or, convicted of or have a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property.

5.9 Contractors' Code of Conduct

Contractor agrees to comply with, and cause all Contractor Personnel to comply with, the Contractors' Code of Conduct attached hereto as Schedule C, as such Code of Conduct may be amended by LAUSD from time to time and provided to Contractor. Contractor will take all necessary steps to avoid the appearance of a conflict of interest and will have an ongoing duty to disclose to District any and all circumstances that pose a potential conflict of interest. Should a conflict of interest issue arise, Contractor agrees to fully cooperate in any inquiry and to provide District with all documents or other information reasonably necessary to enable District to determine whether or not a conflict of interest existed or exists. Any breach of this section shall constitute grounds for immediate termination of this Agreement, in addition to any other remedies District may have.

5.10 Fingerprinting

- (a) For those Contractor Personnel who will have contact with District pupils in the performance of Services hereunder, Contractor will comply with this Section 5.10, pursuant to California Education Code Section 45125.1.
 - (i) Contractor will provide District with a list, by school site, of the names of Contractor Personnel who may have contact with District pupils in the performance of Services hereunder (collectively, the "Affected Persons"), and will update this list for changes in Contractor Personnel.
 - (ii) Contractor will require the Affected Persons to submit to fingerprinting in accordance with Education Code Section 45125.1.
 - (iii) Contractor will prohibit each Affected Person from having contact with District pupils until the California Department of Justice has ascertained that such Affected Person has not been convicted of any violent or serious offense which, if committed in California, would have been punishable as a violent or serious felony (under California Penal Code Sections 667.5(c) and 1192.7(c), respectively).

- (iv) Contractor hereby certifies and confirms, and upon request will separately certify in writing to District, that neither Contractor nor any Affected Persons have been convicted of any violent or serious offense described in Section 5.10(a)(iii) above.
- (b) In addition to the foregoing, District may require, in connection with a Work Order, that Contractor and Affected Persons submit to tuberculosis testing and additional background checks and testing at District's sole and absolute discretion.

6. SERVICES – RESPONSE TO WORK ORDER REQUESTS

6.1 Work Order Requests

- (a) Should LAUSD desire to obtain Services from Contractor, LAUSD will initiate a request for Services by providing such request in writing (a "Work Order Request") to Contractor. Subject to Section 3.3, Contractor may elect, within the time frame specified in a Work Order Request, to prepare and deliver to LAUSD a proposal in response to such Work Order Request (a "Services Proposal"), or within such specified time frame notify LAUSD that Contractor will not respond to the applicable Work Order Request, including a statement in reasonable detail of Contractor's reasons for not responding. Contractor will prepare all Services Proposals in good faith. Contractor will be under no obligation to prepare any Services Proposal hereunder.
- (b) Once submitted to LAUSD, a Services Proposal shall constitute an offer by Contractor to provide the Services described therein on the terms set forth therein, and shall be irrevocable for a period of sixty (60) calendar days. LAUSD may provide Contractor with comments regarding a Services Proposal, and Contractor shall respond to such comments, if any. A pending Services Proposal will become effective only when a detailed Work Order has been drafted by the parties and accepted and executed by LAUSD, subject to any required approvals within LAUSD. LAUSD is under no obligation to accept any Services Proposal.
- (c) Contractor's failure to respond to a Work Order Request applicable to any approved skill-set category and Contractor Service Area as required under Section 6.1(a) above (either with a Services Proposal or with notice that Contractor will not respond) will initially be without prejudice to Contractor's ability to respond to subsequent Work Order Requests; provided, however, that if LAUSD should receive no response from Contractor to three (3) separate Work Order Requests applicable to any approved skill-set category and Contractor Service Area, and Contractor is not performing Services under any Work Order then in effect, LAUSD will be entitled to terminate this Agreement immediately upon written notice to Contractor.

6.2 Changes to Work Orders

Any change to a Work Order shall be made by Change Order executed pursuant to the change control procedures described in Section 11.4.

6.3 Work Order Service Levels

Each Work Order will, if required by LAUSD, include service levels applicable to certain specified Services under the Work Order.

7. SERVICES – APPLICATION MAINTENANCE AND ENHANCEMENT

The provisions of this Article 7 shall only apply to the extent that Contractor is required under a Work Order to deliver a Deliverable to District.

7.1 Development of Acceptance Testing Criteria

Unless otherwise specified in a Work Order, at least sixty (60) calendar days prior to the date on which Contractor is scheduled to deliver a System Deliverable, Contractor shall deliver to District its specifications and proposed acceptance test criteria for such System Deliverable. The specifications and proposed acceptance test criteria, once approved by the parties in writing, shall be the criteria used in acceptance testing of a System Deliverable (the “Final Criteria”). Contractor will not commence development of any System Deliverable hereunder until the parties have approved acceptance test criteria in writing, or, in the absence of such approval, District has specifically authorized Contractor in writing to commence development.

7.2 Acceptance Testing

- (a) Following delivery to District of a System Deliverable and the installation or other implementation thereof, the System Deliverable shall be subject to acceptance testing by District. If District notifies Contractor that a System Deliverable does not satisfy or conform to the Final Criteria within the time period prescribed in the applicable Work Order (the “Initial Acceptance Period”), Contractor shall, at no cost to District, take whatever action is necessary to correct any deficiencies within thirty (30) calendar days after District’s notification to Contractor.
- (b) Upon completion of corrective action by Contractor, District will subject the revised System Deliverable to acceptance testing. If, upon the expiration of the sixty (60) day period after the end of the Initial Acceptance Period, the System Deliverable still does not conform to the Final Criteria, District may: (i) immediately terminate, under Article 20 herein (but without any requirement of a 30-day cure period), the applicable Work Order, along with, in District’s discretion, any related Work Order(s); or (ii) require Contractor, at no cost to District, to continue (even beyond this sixty (60) day period) to correct the deficiencies and to take whatever action is necessary so that the System Deliverable shall conform to the Final Criteria, while reserving the right to terminate (as specified in (i) above) at any time so long as the System Deliverable fails to conform to the Final Criteria.
- (c) Notwithstanding the foregoing, if Contractor fails to cure a deficiency within one hundred twenty (120) calendar days after receipt of notification thereof from District, Contractor may elect to cease curing the deficiency if Contractor (a) notifies District that it will cease curing the deficiency and (b) promptly refunds District all amounts paid under the Work Order and any related Work Order(s) for the System Deliverable(s). However, in the event that District has accepted a portion or component of the System Deliverable(s) in accordance with this Article 7, and District desires to retain such portion or component, the refund owed to District shall be equitably reduced by the amount that such portion or component represents of the System Deliverable(s) taken as a whole.

7.3 Acceptance Notice

When, in District’s reasonable judgment, a System Deliverable has satisfied the Final Criteria, District shall give Contractor written notice thereof. At the completion of installation of any Final Deliverable, the Final Deliverable shall operate for a period of sixty (60) consecutive calendar days in conformity with its Documentation (which shall include, if applicable and without limitation, Final Criteria). If a Final Deliverable does not operate for a

period of at least sixty (60) consecutive days in conformity with its Documentation, District may (i) immediately terminate, under Article 20 herein (but without any requirement of a 30-day cure period), the applicable Work Order, along with, in District's discretion, any related Work Order(s), and, at District's request, Contractor shall promptly reimburse District any amounts paid for the non-conforming Final Deliverable; or (ii) if the parties agree in writing that it is commercially reasonable under the circumstances, Contractor shall, at no cost to District, continue correction of deficiencies for a period of time agreed to by the parties so that the Final Deliverable shall conform to its Documentation, while reserving the right to terminate (as specified in (i) above) at any time so long as the Final Deliverable fails to conform to its Documentation. Acknowledgement in writing by District of such operation for said sixty (60) day period shall constitute final acceptance of the Final Deliverable involved.

7.4 Other Deliverables

For any Deliverable that is not a System Deliverable, the applicable Work Order will set forth the acceptance criteria and other testing required for District to evaluate and accept (or, where necessary, reject) such Deliverable; provided, however, that in no case will a Deliverable be accepted by District until District has provided Contractor with District's written acceptance thereof.

8. SERVICE LEVELS; PERFORMANCE STANDARDS; EQUIPMENT AND FACILITIES

8.1 Service Levels

Work Orders may include quantitative service levels to be met by Contractor. Unless otherwise agreed, Contractor's performance of the Services against applicable service levels will be measured on a monthly basis. With respect to each Service that has an associated service level, Contractor shall provide such Service throughout the Term in a manner that meets or exceeds the associated service level. Regardless of whether a Work Order includes service levels, Contractor shall perform all Services and obligations promptly, diligently and in a workmanlike and professional manner, using qualified individuals.

8.2 RESERVED

8.3 Measurement and Monitoring Tools

Contractor shall provide LAUSD with a monthly report of service level performance under any applicable Work Order, with a description of the measurement and monitoring tools used to generate such monthly report.

8.4 Failure to Meet Service Levels

Contractor acknowledges that its failure to meet one or more service levels may have a material adverse effect on the business and operations of LAUSD and that the actual amount of damage sustained by LAUSD because of such failure may be impossible or extremely difficult to determine. Accordingly, any Work Order may provide that if Contractor fails to meet a service level, LAUSD shall have the option, but not the obligation, to recover the amounts specified in such Work Order as service level credits against amounts owed to Contractor by LAUSD.

8.5 Equipment

- (a) The terms of this Section 8.5 shall only apply to the extent that Contractor provides or maintains equipment and tools in order to provide the Services under a Work Order.
- (b) Except as otherwise specified in a Work Order, each party will be responsible for providing and maintaining its own equipment and tools, and Contractor will be responsible for providing all equipment and tools necessary to provide the Services.

- (c) If LAUSD shall make available to Contractor any computer, communications or other equipment owned or leased by LAUSD, Contractor shall: (i) use such equipment for the sole purpose of providing the Services and shall not use such equipment to provide services to or for the benefit of any third party; (ii) comply with any directions from LAUSD concerning the use and location of such equipment; and (iii) return such equipment to LAUSD, upon termination of the applicable Work Order, in the same condition it was in when delivered or provided to Contractor, ordinary wear and tear excepted.

8.6 Facilities

- (a) Notwithstanding any other provision of this Agreement, the terms of this Section 8.6 shall only apply to the extent that Contractor is responsible for providing (i) a facility dedicated to providing or performing Services hereunder, or (ii) a data center for the hosting of applications or the storage of LAUSD Data.
- (b) Except as specifically set forth in a Work Order, Contractor will be responsible for providing all space and equipment necessary to provide the Services at its own or other facilities. Contractor will seek LAUSD's prior approval for any relocation of the facilities at and from which the Services are provided and will manage any such changes in accordance with the change control procedures described in Section 11.4.
- (c) With respect to any Contractor data center from which applications are hosted by Contractor on LAUSD's behalf or at which LAUSD Data is stored pursuant to the terms of an applicable Work Order, Contractor shall establish and maintain proper and adequate facilities, equipment and supplies, and a properly trained and adequate staff, including necessary management and support staff. Such data center shall operate twenty-four (24) hours per day, seven (7) days per week.
- (d) Throughout the Term, Contractor shall maintain commercially reasonable physical and logistical security measures and safeguards at Contractor facilities (including security measures and safeguards specific to those areas of the facilities that are partitioned from the rest of the facilities and dedicated to the provision of the Services) to guard against the destruction, loss or alteration of any LAUSD property or LAUSD Data that is required by Work Order to be maintained or stored at such facilities.
- (e) The security measures and safeguards maintained at Contractor facilities shall be no less rigorous than those maintained by LAUSD as of the date of the applicable Work Order at similar LAUSD facilities and shall be no less rigorous than those maintained by Contractor for its other facilities. Such security measures shall include at a minimum:
 - (i) With respect to any Contractor data center at which LAUSD Data is stored pursuant to the terms of an applicable Work Order, providing security guards and technical support engineers on a 24x7 basis and maintaining access controls which include, at a minimum (1) restricting access to the data center and any portions of the data center containing LAUSD Data, and (2) monitoring and logging access to the data center.
 - (ii) With respect to any Contractor facilities dedicated to providing or performing Services, maintaining access controls to such facilities (particularly with respect to the areas of such facilities from which the Services are performed or Confidential Information is stored), which controls will include, at a minimum (1) inspecting identification and allowing only authorized personnel to enter such facilities, (2) monitoring and logging access to such facilities, (3) utilizing equipment that does not

allow for the physical download of Confidential Information (e.g., computers with disabled CD burners and disk drives without removable disks), or otherwise protecting Confidential Information in such a way so as to prevent its physical download, and (4) printing hard copy only as necessary to perform the Services, providing LAUSD with reasonable access to print logs maintained by Contractor, and maintaining policies requiring the shredding of documents and prohibiting the removal of hard copies from the applicable secured areas of Contractor's facilities.

- (f) In the event of a disaster at a Contractor facility used to provide the Services, with respect to resources engaged in recovery efforts stemming from such disaster that Contractor must allocate between or among Contractor's customers, no other Contractor customer will receive higher priority than LAUSD with respect to those resources without LAUSD's prior written consent, which LAUSD may withhold in its sole discretion.

8.7 Use of LAUSD Property and Facilities

- (a) If LAUSD shall make space in any LAUSD facility available to Contractor, Contractor shall:
 - (i) use such space for the sole purpose of providing the Services to LAUSD and not for the benefit of or the provision of services to any third party; (ii) comply with all policies and procedures governing access to and use of LAUSD facilities; and (iii) return such space to LAUSD in the same condition it was in when provided to Contractor, ordinary wear and tear excepted. Except as otherwise provided in an applicable Work Order, LAUSD shall provide LAUSD facilities and access to normal office resources (e.g., fax, telephone and copier support) at no charge to Contractor. LAUSD facilities are made available to Contractor on an "as is, where is" basis, with no warranties whatsoever.
- (b) Contractor shall be responsible and liable for any damage to real or tangible LAUSD property caused by Contractor or any Contractor Personnel in connection with performance of this Agreement, ordinary wear and tear excepted.

9. PERSONNEL

9.1 Qualifications of Contractor Personnel

- (a) Contractor shall provide all necessary personnel, adjudged by Contractor as qualified, with the level of experience set forth in the Work Order Request, to perform the Services. District shall have the right to accept or reject assignment of any Contractor Personnel. Contractor will assign an adequate number of Contractor Personnel to perform the Services. The timing for transfer, reassignment or replacement of Contractor Personnel will be closely coordinated with the requirements for timing and other elements of the Services so as to maintain continuity in the performance of the Services.
- (b) All Contractor Personnel shall be required to comply with the LAUSD Information Security Policies. Contractor Personnel working at LAUSD facilities shall be subject to LAUSD-required verification (which may include, without limitation, background checks and finger printing).
- (c) All Contractor Personnel shall be required to have executed a confidentiality agreement with Contractor that includes terms at least as restrictive as the terms in this Agreement and in any confidentiality agreement between Contractor and District, and such other terms as may be imposed by law on District and its contractors.

9.2 Assignment and Removal of Contractor Personnel; Conditions for Immediate Removal at LAUSD Request; Cost of Knowledge Transfer to Replacement Contractor Personnel

- (a) The Contractor Personnel assigned to perform the Services and their respective roles will be identified in each Work Order. Except in the case where any Contractor Personnel (i) voluntarily resigns or takes a leave of absence from Contractor, (ii) is terminated by Contractor, (iii) fails, in Contractor's sole and exclusive determination, to perform his or her duties and responsibilities pursuant to this Agreement, or (iv) dies or otherwise is rendered unable to work: Contractor shall not change any Contractor Personnel or reassign any of the Contractor Personnel to other projects without District's prior written approval and until a satisfactory replacement has been approved by District. Contractor shall submit to District written documentation of the qualifications for a proposed replacement to any Contractor Personnel, and any proposed replacement must be approved by the District, regardless of the reason for the removal or reassignment of the Contractor Personnel requiring the replacement.
- (b) Unless the Work Order states that no "project executive" is required for such Work Order, Contractor will designate an individual as its "project executive" for each Work Order, to serve as the onsite manager for the delivery of Services thereunder and have overall responsibility for Contractor's performance of the Services thereunder. For each Work Order, Contractor's project executive will (i) serve as the single point of accountability for Contractor for the Work Order, (ii) manage and supervise the Contractor Personnel, and (iii) have such additional roles and responsibilities as may be outlined in the Work Order or designated by Contractor.
- (c) In the event that LAUSD determines in good faith that the continued assignment to LAUSD's account of any of the Contractor Personnel is adversely affecting LAUSD, then LAUSD will give Contractor written notice to that effect. Promptly after receipt of such notice, Contractor will use commercially reasonable efforts to resolve any problems with the relevant Contractor Personnel. If, following such efforts, LAUSD requests replacement of the relevant Contractor Personnel, Contractor will replace the relevant Contractor Personnel with Contractor Personnel of equal ability and qualifications as expeditiously as possible. Notwithstanding the foregoing, in the event that LAUSD in good faith requests the immediate removal of any of the Contractor Personnel from the LAUSD account, Contractor shall immediately remove such person from the LAUSD account at no charge to LAUSD and will promptly replace such person with another person of equal ability and qualifications.
- (d) In the event that any Contractor Personnel is removed or reassigned, regardless of the reason, Contractor shall use commercially reasonable efforts to assure, at Contractor's sole cost, that the replacement Contractor Personnel receives a transfer of knowledge regarding the Services performed to date on the applicable Work Orders by the Contractor Personnel being replaced, by the District, and by all other Contractor Personnel. The objectives of the knowledge transfer include, without limitation, assuring that the District does not pay to repeat or replicate work previously performed and that the Services are timely and efficiently performed.

At Contractor's discretion, such transfer of knowledge may be accomplished by, among other means:

- (i) The assignments of the two individuals overlapping by weeks or days (with the cost of the time of any Contractor Personnel when involved in the knowledge transfer being borne by Contractor); and/or

- (ii) Review by the replacement Contractor Personnel, at Contractor's expense, of reports, documents, Documentation, Code Documentation, or other materials.

10. ANY WORK OR SERVICES OF THE REPLACED CONTRACTOR PERSONNEL THAT IS RE-DONE, REVISED OR TESTED DUE IN MATERIAL PART TO THE REPLACEMENT OF ANY CONTRACTOR PERSONNEL SHALL BE AT CONTRACTOR'S SOLE COST. SOFTWARE AND INTELLECTUAL PROPERTY RIGHTS AND OBLIGATIONS

10.1 Software Generally

Except as otherwise specified in a Work Order, each party will be responsible for providing and maintaining its own software, and Contractor will be responsible for providing all software necessary to provide the Services.

10.2 Software Owned or Licensed by LAUSD; Work Product

- (a) **LAUSD Software**
Each Work Order will specify any LAUSD Software that Contractor is authorized to use to perform the Services and shall specify the rights of Contractor regarding use of such LAUSD Software. LAUSD will retain all rights to LAUSD Software. Pursuant to the terms of an applicable Work Order, Contractor will be granted a license during the term of such Work Order to use and access LAUSD Software for the sole purpose of providing the Services. Contractor will cease use of such LAUSD Software upon expiration or termination of the applicable Work Order. Without limiting the foregoing, District shall retain all right, title and interest in and to any other proprietary material that District supplies to Contractor. With respect to any District Pre-Existing Items provided to Contractor hereunder, District hereby grants Contractor only those rights and licenses necessary for Contractor to fulfill its obligations under each Work Order.
- (b) **Work Product**
Except as otherwise agreed in writing by the parties under an applicable Work Order, LAUSD will own all right, title and interest in and to the Work Product, including ownership of copyright therein, and Contractor hereby assigns and agrees to assign to LAUSD, its successors, assigns or designees, all of Contractor's rights in and to any such Work Product. Contractor will provide to LAUSD all copies of such Work Product (including, if applicable and required by a Work Order, the source code and Code Documentation for any software that constitutes Work Product), and LAUSD will have the exclusive right to copyright such material. District hereby grants and agrees to grant to Contractor an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and prepare derivative works based on, Work Product, only for Contractor's internal purposes; provided, however, that Contractor may make further use of the Work Product by complying with the terms of Section 10.6 below. Contractor will be responsible for ensuring that no Contractor Personnel retain rights to any Work Product in contravention to the grant of rights set forth herein.
- (c) **Third Party Software**
Each Work Order will specify any third party software provided as a Deliverable or embedded in or otherwise required to use or operate any Deliverable, and Contractor will not embed in a Deliverable or provide a Deliverable that is or requires for its use or operation any other third party software without District's written consent. All licenses to such third party software may be retained by LAUSD in LAUSD's discretion. Any consents or agreements necessary to enable Contractor's use or operation of third party software shall be obtained by Contractor

with such reasonable assistance from LAUSD as is requested by Contractor. Contractor will comply with the licenses for any third party software licensed by LAUSD and used by Contractor in relation to the Services. The respective financial, operational and other obligations of the parties with respect to any third party software shall be set forth in each applicable Work Order.

10.3 Contractor Software and Other Intellectual Property

- (a) Each Work Order will identify any Contractor Commercial Software that will be delivered under such Work Order, and such Contractor Commercial Software (together with any applicable Documentation) shall be provided under the terms of Contractor's or the third party software provider's standard license agreement for such software. Subject to any contrary terms in a Work Order, Contractor shall install, operate and maintain at its expense any such Contractor Commercial Software.
- (b) Contractor grants and agrees to grant to District with respect to all Contractor Customized Software and any Documentation related thereto that is owned by Contractor or a third party, a nonexclusive, worldwide, perpetual, royalty free, fully paid license permitting District internal use of such Contractor Customized Software and Documentation, which license shall, at District's option, be transferable to any Affiliate of District. As used in this Section, "internal use" shall mean use of the Contractor Customized Software on any or all central processing units at any or all locations owned or leased by District, any locations used by independent agents who contract with District, or any locations used by District employees or District subcontractors. If required by a Work Order, Contractor shall also provide District with any nonproprietary software (including Code Documentation therefor) utilized by Contractor to develop any System Deliverable.
- (c) Unless specifically set forth under the terms of an applicable Work Order, District shall not be subject to any upgrade, maintenance, transfer, or other fees based upon District's use of any Contractor Commercial Software or Contractor Customized Software.
- (d) Subject to any contrary terms in a Work Order, Contractor also grants and agrees to grant to District a nonexclusive, worldwide, perpetual, royalty free, fully paid license to use the source code, Code Documentation, and any software tools necessary to maintain or modify the Contractor Customized Software and, to the extent applicable, the Work Product. To the extent that LAUSD's use of any Contractor Commercial Software, Contractor Customized Software, Contractor Pre-Existing Items or Work Product would constitute an infringement of any patent, know-how, trade secret or other intellectual property rights of Contractor or any third-party licensor of Contractor, Contractor further grants and agrees to grant to District a nonexclusive, worldwide, perpetual, royalty free, fully paid license (or, if applicable, sublicense) to such patents, know-how, trade secrets or other intellectual property rights, to the extent necessary to permit District to make such use of the Contractor Commercial Software, Contractor Customized Software, Contractor Pre-Existing Items or Work Product as is set forth herein or in the applicable Work Order.

10.4 Modifications

District shall have the right, in its sole discretion, to independently modify Work Product and Customizations for LAUSD-specific functions, through the services of its own employees or of independent contractors. Subject to any contrary terms in an applicable Work Order, District shall be the owner of any such modifications. Contractor shall not disclose such modifications to any third parties and shall not incorporate any such modifications into

Contractor Commercial Software for distribution to third parties (or otherwise commercially exploit such modifications in any way) unless Contractor first obtains the written consent of District and complies with the terms of Section 10.6 below.

10.5 Proprietary Notices

District agrees that any copies of the Contractor Commercial Software, Contractor Customized Software, Contractor Pre-Existing Items, and Documentation shall bear all copyright, trademark, and other proprietary notices properly included therein by Contractor or a third party. District may add its own copyright or other proprietary notice to any copy of the Contractor Customized Software or Documentation that contains permitted modifications made by District.

10.6 Royalties

Contractor shall pay to District a royalty of two percent (2%) of all third party fees that are generated, billed or received by Contractor for Contractor's use or sublicensing of the Work Product or any Customizations in connection with any product or service distributed by Contractor or its Affiliates ("Revenues"), such royalty to be based upon the usual billing price for such products and services. Royalty payments, if any, shall be due annually on June 30, and, when due, must be accompanied by a statement of accounts setting forth all Revenues received as of May 31 of that same year. Contractor shall keep accurate books of accounts and shall keep and maintain all records, documents and other instruments relating to Revenues in such detail as shall enable District to ascertain royalties due under this Agreement in accordance with District's audit rights set forth under Section 12.1 below.

10.7 Reserved

10.8 Registrations

In the event any intellectual property that is created under this Agreement and owned by LAUSD shall be determined by LAUSD to be copyrightable or otherwise registrable, Contractor shall assist LAUSD at LAUSD's expense in obtaining and maintaining registrations and in vesting LAUSD with full title.

10.9 Residual Knowledge

Nothing contained in this Agreement shall restrict either party from the use of any general ideas, concepts, know-how, methodologies, processes, technologies, algorithms or techniques retained in the undocumented mental impressions of such party's personnel relating to the Services which either party, individually or jointly, develops or discloses under this Agreement, provided that in doing so such party does not (a) infringe the intellectual property rights of the other party or third parties who have licensed or provided materials to the other party, or (b) breach its confidentiality obligations under this Agreement or under agreements with third parties.

11. CONTRACT AND PROJECT MANAGEMENT

11.1 RESERVED

11.2 Meetings

- (a) Meeting Schedule
Each Work Order may include a schedule for regular project management meetings between the parties, and the parties shall hold such meetings as are set forth therein.
- (b) Meeting Agenda

Contractor will prepare and circulate an agenda sufficiently in advance of each project management meeting to give participants an opportunity to prepare for the meeting. Contractor will incorporate into such agenda items that LAUSD desires to discuss. At LAUSD's request, Contractor will prepare and circulate minutes promptly after a meeting.

11.3 Performance Reports

A Work Order may require Contractor to provide monthly performance reports, which will be delivered to LAUSD within fifteen (15) calendar days after the end of each month of the term of the Work Order, describing Contractor's performance of the Services in that month. Each monthly performance report will, to the extent applicable: (a) separately address Contractor's performance against any service levels; (b) describe the status of each key project, problem resolution effort and any other initiative; (c) explain deviations from service levels and include for each deviation a plan for corrective action; (d) set forth the utilization of resources for the month and utilization trends; and (e) provide LAUSD a projection of the Charges for the following month. Contractor will also provide such other reports as may be required under an applicable Work Order.

11.4 Change Control Procedures

- (a) No changes or additions may be made to any Work Order without the written agreement of LAUSD as evidenced by a duly executed Change Order.
- (b) Contractor will not take an action or make a decision which may have a material effect on LAUSD or which adversely affects the function or performance of, or decreases the resource efficiency of, the Services, including implementing changes in technology or equipment and software configuration, without first obtaining LAUSD's written approval, which approval LAUSD may withhold in its sole discretion as respects any change which may have an adverse effect on LAUSD or the Services.

11.5 Subcontracting

- (a) Contractor will not enter into any subcontract for the provision of the Services without the prior written consent of LAUSD; provided, however, that for any Work Order, LAUSD may provide prior approval of several subcontractors for the possible provision of Services, and Contractor shall thereafter be entitled to subcontract with any, all or none of such approved subcontractors.
- (b) Subcontractors approved by LAUSD shall be set forth in the applicable Work Order. With respect to any subcontract related to the delivery or performance of Services, Contractor will include in such subcontract provisions substantially similar to those provisions of this Agreement material to the subcontractor's performance under such subcontract.
- (c) LAUSD shall have the right to revoke its prior approval of an authorized subcontractor if the subcontractor's performance is deficient, if misrepresentations were made concerning the subcontractor at the time of LAUSD's approval, or for other factors related to any LAUSD experience with the subcontractor.
- (d) Contractor will remain responsible for obligations, services and functions performed by subcontractors to the same extent as if these obligations, services and functions were performed by Contractor's employees. Contractor will be LAUSD's sole point of contact.

11.6 RESERVED

12. AUDITS

12.1 Audit Rights

- (a) Contractor shall maintain, and District shall have the right to examine and audit, all of the books, records, documents, accounting procedures and practices and other evidence regardless of form (e.g., machine-readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient, at a minimum, to the extent permitted or required by any laws and regulations applicable to LAUSD or Contractor, to (i) with respect to Services or Deliverables supplied on a cost or cost-plus basis, properly reflect all costs claimed to have been incurred or anticipated to be incurred in performing this Agreement; (ii) with respect to Services performed on an hourly basis, properly reflect the hours billed; (iii) to the extent Contractor is performing operations involving LAUSD Data, verify the integrity of LAUSD Data and examine the systems that process, store, support and transmit that data; (iv) examine and verify Contractor's disaster recovery planning and testing, business resumption and continuity planning and testing, contingency arrangements and insurance coverage; and (v) review other areas of performance as set forth in the this Agreement or any Work Order, including, without limitation, any royalties due under Section 10.6 hereof.
- (b) Contractor shall make said evidence (or to the extent accepted by District, photographs, micro-photographs or other authentic reproductions thereof) available to District at District's or Contractor's offices (to be specified by District) upon reasonable notice and without charge to District. Said evidence shall be provided to District within five (5) working days after a written request from District. Contractor shall, at no cost to District, furnish reasonable assistance for such examination/audit. Contractor and its subcontractors and suppliers shall keep and preserve all such records for a period of at least 3 years from and after final payment or, if this Agreement is terminated in whole or in part, until 3 years after the final Agreement close-out. District's rights under this section shall also include access to Contractor's offices for the purpose of interviewing Contractor's employees who might reasonably have information related to such records.
- (c) Any information provided on machine-readable media shall be provided in a format accessible and readable by District. Contractor's failure to timely provide records or access shall preclude Contractor from receiving any payment due under the terms of this Agreement until such records or access are provided to District. Contractor shall also be responsible for ensuring that it obtains and maintains sufficient information and records to permit District to evaluate the performance of Contractor's subcontractors and suppliers in accordance with the requirements of this section.

12.2 Audit Follow-Up

Contractor shall meet to review each audit report promptly after the issuance thereof at the request of LAUSD to mutually agree upon an appropriate and effective manner in which to respond to the deficiencies identified and changes suggested by the audit report. If an audit reveals an overcharge, Contractor will promptly refund such overcharge (net of any undercharges).

12.3 Records Retention

Until (a) the earlier of three (3) years after the expiration or termination of this Agreement or three (3) years from District's last payment for specific goods or services under this Agreement; or (b) if pending matters relating to

this Agreement (e.g., disputes) are open as of such date, the date such pending matters are closed, Contractor will maintain and provide access upon request to the records, documents and other information required to meet LAUSD's audit rights under this Agreement.

13. CHARGES

13.1 General; Not to Exceed Amount

Subject to the other provisions of this Agreement, LAUSD shall pay to Contractor the Charges. Except as otherwise expressly set forth in this Agreement, LAUSD shall not be obligated to pay any amounts to Contractor for its performance of the Services and its other obligations under this Agreement other than the amounts set forth in the Work Orders. Contractor's rates charged to LAUSD for the Services will not exceed those set forth on Contractor's schedule of rates set forth attached hereto as Schedule E (Contractor's Rates) without LAUSD's prior written approval. In no event shall Charges (including, without limitation, Pass-Through Expenses, other expenses, and taxes) under this Agreement exceed \$__,000,000.

13.2 Pass-Through Expenses

- (a) If a Work Order provides that a Pass-Through Expense is to be paid by LAUSD directly, Contractor will promptly provide LAUSD with the original third-party invoice for the Pass-Through Expense. If a Work Order provides that a Pass-Through Expense is to be paid by Contractor, Contractor will act as payment agent for LAUSD and will pay third-party charges comprising the Pass-Through Expense. For each Pass-Through Expense, Contractor will review the corresponding invoiced charges to determine whether the charges are proper and valid and should be paid, and will provide LAUSD with a statement to that effect. Where Contractor is paying a Pass-Through Expense on LAUSD's behalf, Contractor will provide LAUSD with a reasonable opportunity to review the applicable invoice. Following this review, Contractor will pay the amounts due and will invoice LAUSD for the charges.
- (b) Contractor will use commercially reasonable efforts to minimize Pass-Through Expenses. With respect to services or materials paid for on a Pass-Through Expense basis, LAUSD reserves the right to: (i) obtain these services or materials directly from a third party; (ii) designate the third party source for these services or materials; (iii) designate the particular services or materials (e.g., equipment make and model) that Contractor will obtain, provided that if Contractor demonstrates to LAUSD that this designation will have an adverse impact on Contractor's ability to meet applicable service levels, this designation will be subject to Contractor's approval; (iv) require Contractor to identify and consider multiple sources for these services or materials or to conduct a competitive procurement; and (v) review and approve the Pass-Through Expense for these services or materials before entering into a contract for these services or materials.

13.3 Incidental Expenses

Except as expressly provided in an applicable Work Order, those expenses that Contractor incurs in performing the Services (e.g., travel and lodging, document reproduction and shipping, and long distance telephone) shall be included in Contractor's rates. Accordingly, Contractor's expenses are not separately reimbursable by LAUSD unless, on a case-by-case basis, LAUSD has agreed in advance and in writing to reimburse Contractor for particular expenses.

13.4 Taxes

- (a) Each party shall pay any real property taxes or personal property taxes on property it either owns or leases from a third party or any other taxes, fees or costs related to equipment or the lease of equipment.
- (b) Contractor shall pay any sales, use, excise, transfer, value-added, services, consumption, and other taxes and duties imposed on any goods and services acquired, used or consumed by Contractor in connection with the Services. As part of the Charges, LAUSD shall pay when due any sales, use, excise, value-added, services, consumption and other taxes and duties imposed on its acquisition of goods and Services from Contractor. Such taxes shall be included in the Charges for any applicable Work Order and shall not be charged to LAUSD separately. LAUSD shall withhold taxes as required by law and any such withholding shall reduce the payment otherwise required to be made to Contractor. Contractor shall be responsible for properly calculating and invoicing applicable taxes on the Services. Interest and penalties imposed with regard to taxes shall be borne by the same party who bears the responsibility for remitting the tax.
- (c) The parties shall cooperate to determine accurately their respective tax liabilities and to reduce such liabilities to the extent permitted by law. Contractor invoices to LAUSD shall separately state the amount of any taxes Contractor is collecting from LAUSD. Each party shall provide to the other any resale certificates, exemption certificates, information regarding out-of-state or out-of-country sales or use of equipment and services, and such other similar information as the other party may reasonably request.

14. INVOICING AND PAYMENT

14.1 Invoices

- (a) Contractor shall issue to LAUSD on a monthly basis, in arrears, one consolidated invoice per Work Order (one paper copy and one electronic version) for all Charges due under that Work Order. Each invoice shall summarize the total Charges payable by LAUSD to Contractor for Services rendered in the previous month, and shall separately state Charges for the Services, Pass-Through Expenses and taxes payable, and shall otherwise be in such detail as LAUSD may reasonably require. Invoices shall be in such form as the parties may mutually agree, or as otherwise required by LAUSD. In addition to providing invoices to the individuals identified on each Work Order as the LAUSD project executives, Contractor will provide electronic copies of each invoice issued hereunder to LAUSD's IT Support Services division at the following e-mail address:

IT Support Services
Attention: Billing
InvoiceITD@lausd.net

with a copy to the LAUSD Project Manager set forth on the applicable Work Order at the email address for that person on such Work Order.

- (b) For Services provided on a time and materials basis, Contractor will include with each invoice a chronological, itemized listing of the activities performed under the applicable Work Order during the prior month, showing: the date of service; a description of each item of work; the

number of hours expended by Contractor Personnel on each item or work; and the hourly rate(s) for Contractor Personnel performing Services.

- (c) For Services provided on a fixed-fee or milestone basis, Contractor will include with each invoice a status report for such Services, and will include therein a copy of LAUSD's written acceptance of any Deliverable(s) for which payment is sought.

14.2 Payment

- (a) Subject to Section 14.5, each invoice delivered pursuant to Section 14.1 shall be due and payable within forty-five (45) calendar days after the date such invoice is received by LAUSD.
- (b) To the extent LAUSD is entitled to a credit (including, without limitation, any service level credit) pursuant to this Agreement or any Work Order, Contractor shall provide LAUSD with such credit on the first invoice delivered after such credit is earned. If the amount of any credit on an invoice exceeds the amount owing to Contractor reflected on such invoice, Contractor shall pay the balance of the credit to LAUSD within forty-five (45) calendar days after the invoice date, unless LAUSD agrees in writing to carry over the balance of the credit to subsequent Contractor invoices.

14.3 Proration

All periodic Charges (excluding those based upon actual usage or consumption of Services) shall be computed on a 30-day calendar month basis and shall be prorated for any partial month.

14.4 Refunds

If either party (a "rebate recipient") should receive a refund, credit or other rebate for goods or services paid for by the other party, the rebate recipient shall promptly notify the other party and shall pay such amount to the other party (or, if applicable, provide a credit on the next invoice) within thirty (30) calendar days after receipt thereof. Any amount that remains unpaid thirty (30) calendar days after receipt by the rebate recipient will begin to accrue interest at the prime rate of Citibank of New York.

14.5 Set Off and Disputed Charges

- (a) Notwithstanding any other provision of this Agreement, a party who is owed any undisputed amount by the other party may, at its option, set off any such undisputed amount as a credit against any amounts it otherwise owes to the other party.
- (b) If LAUSD disputes in good faith any portion of an invoice, LAUSD shall pay the undisputed amount of such invoice when due and may, at its option, withhold the disputed portion pending resolution of the dispute. If LAUSD withholds any payment pursuant to this Section, LAUSD shall notify Contractor in writing of the basis for such withholding. Upon resolution of the dispute, LAUSD shall pay to Contractor any amount then determined to be owing to Contractor.

15. DATA AND INFORMATION

15.1 Public Records

This Agreement and its Work Orders are subject to the California Public Records Act. Those elements of any document provided to District that are Contractor trade secrets, as defined in Cal. Civil Code §3426.1(d), or otherwise exempt by law from disclosure and which are prominently marked as “TRADE SECRET,” “CONFIDENTIAL” or “PROPRIETARY” may be protected from disclosure; provided, however, that if disclosure is deemed to be required by law or by court order then District shall not in any way be responsible or liable (to Contractor or to any third party) for any disclosure made under the California Public Records Act, including (without limitation) any disclosure of Contractor documents marked as “TRADE SECRET,” “CONFIDENTIAL” or “PROPRIETARY.” In addition, District shall have no obligation to resist any disclosure deemed to be required by law or by court order.

15.2 Ownership and Protection of LAUSD Information

- (a) Confidential Information (and any derivative works thereof or modifications thereto) is and will remain the exclusive property of LAUSD or its licensors, as applicable. Contractor will not possess or assert any lien or other right against or to Confidential Information. No Confidential Information, or any part thereof (including, without limitation, any LAUSD Data), will be sold, assigned, leased, or otherwise disposed of to third parties by Contractor or commercially exploited by or on behalf of Contractor, its employees or agents.
- (b) During the course and scope of its services hereunder, Contractor may gain knowledge of or have access to Confidential Information, or otherwise have Confidential Information disclosed to it. Contractor understands that Confidential Information is made available to it only to the extent necessary to perform its duties within the course and scope of this Agreement, and Contractor and the Contractor Personnel will use Confidential Information for no other purpose. During the Term of Nondisclosure, Contractor agrees that neither it nor the Contractor Personnel shall, directly or indirectly, disclose, use or distribute any Confidential Information to any third party without LAUSD’s prior written consent. Contractor will disclose Confidential Information only to Contractor Personnel with a need to access such data as a necessary part of the performance of the Services.
- (c) Contractor acknowledges and agrees that LAUSD Data includes confidential student and employee information that is protected by applicable law, including but not limited to, FERPA and HIPAA. Contractor Personnel may, by nature of the Services, have the ability to defeat security provisions on LAUSD devices and may, by the nature of their work, have access to systems and devices containing Confidential Information, but have no need to actually access such Confidential Information in order to perform Services. Contractor therefore agrees to use all commercially reasonable efforts to avoid unnecessary exposure by Contractor Personnel to Confidential Information. Contractor further agrees to comply, and agrees to require Contractor Personnel to comply, with all applicable laws relating to the access, use and disclosure of Confidential Information and any LAUSD Data embodied therein. Contractor agrees to inform LAUSD whenever access is sought by Contractor or Contractor Personnel to student or employee data files.
- (d) Upon request, Contractor will propose, for LAUSD review and approval, policies and procedures for informing Contractor Personnel of restrictions regarding access to and use of Confidential Information and for monitoring compliance with such restrictions and with the terms of this Article 15.

- (e) Contractor will cooperate, and will cause Contractor Personnel to cooperate, fully in resolving any actual or suspected acquisition or misuse of Confidential Information.
- (f) Notwithstanding the terms of this Section 15.2, Contractor may disclose Confidential Information if disclosure is required by law in response to a valid order of a court of competent jurisdiction or authorized government agency, provided that Contractor must provide the District prompt notice of the order and at the District's request and expense, reasonably cooperate with the District's efforts to receive a protective order or otherwise limit disclosure.

15.3 Return of Data

At no cost to LAUSD, Contractor shall upon (a) request by LAUSD at any time, or (b) upon termination or expiration of this Agreement and any Work Order, promptly return to LAUSD, in the format and on the media in use as of the date of request, all or any requested portion of Confidential Information that may be in Contractor's possession or control. Archival tapes containing any Confidential Information shall be used by Contractor solely for back-up purposes and shall be maintained and used in accordance with the LAUSD Information Security Policies. Notwithstanding the foregoing and subject to any restrictions imposed by applicable law, Contractor may retain a copy of Confidential Information (but excluding any student or employee data) solely for archival purposes and in connection with any dispute between the parties.

15.4 Security

- (a) Contractor and Contractor Personnel will comply with the LAUSD Information Security Policies. Specific modifications to any such policies may be included in an applicable Work Order.
- (b) Contractor shall use a current version of antivirus and Virus detection software approved by LAUSD (including all updates). Contractor will not willfully or negligently insert or include, or permit or cause any third party under its control to insert or include, any Virus into any Deliverable or LAUSD's information technology environment. Contractor will use commercially reasonable efforts to reduce the likelihood that any Virus is introduced into any software or LAUSD's information technology environment, and will test Deliverables for Viruses. In the event a Virus is introduced into Contractor Commercial Software, Contractor Customized Software, Work Product, LAUSD Software or any other part of the LAUSD information technology environment by Contractor or any third party under its control who has access to such materials, Contractor will remove such Virus and will provide all necessary services to minimize the impact of such Virus. In such event, Contractor will be liable for loss of data or records of LAUSD to the extent such loss of data or records is due to the willful misconduct or negligent introduction of such Virus into a Deliverable or the LAUSD information technology environment by Contractor or any third party under its control who has access to such Deliverable, or any part thereof, or any part of the LAUSD information technology environment.

15.5 Destroyed or Lost Data

- (a) Except as required in the performance of Services, Contractor will not delete or destroy any LAUSD Data or media on which LAUSD Data resides without prior written authorization from LAUSD. In the event any LAUSD Data is lost or destroyed due to any willful misconduct or negligent act or omission of Contractor, including any breach of the security

procedures described in this Article 15 and any Work Order, and such LAUSD Data cannot be fully restored by a reload under Section 15.5(b) below, Contractor shall be responsible for the prompt regeneration or replacement of such LAUSD Data. Contractor shall prioritize this effort so that the loss of LAUSD Data will not have an adverse effect upon LAUSD's business or the Services. LAUSD agrees to cooperate with Contractor to provide any available information, files or raw data needed for the regeneration of the LAUSD Data. If Contractor fails to regenerate the lost or destroyed LAUSD Data within a time reasonably set by LAUSD (or within a reasonable time, if no such time is set), then LAUSD may obtain data reconstruction services from a third party, and Contractor shall cooperate with such third party as requested by LAUSD. In addition to any other damages incurred by LAUSD, Contractor will be responsible for the actual costs incurred by LAUSD for the reconstruction of such LAUSD Data by a third party, subject to the limitation on Contractor's liability set forth in Section 19 below. In the event it is determined that LAUSD Data has been lost or destroyed as a result of the willful misconduct of Contractor or its employees, contractors or agents, LAUSD may terminate the applicable Work Order or this Agreement pursuant to Section 20.3.

- (b) Without limitation to Contractor's obligations regarding data regeneration set forth in Section 15.5(a) above, in the event of the loss of, damage to, or corruption of data caused by Contractor or any Contractor Personnel, Contractor shall, promptly and without charge to LAUSD, reload such data as shall be issued by LAUSD to Contractor from LAUSD back-up stores, provided that LAUSD has kept commercially reasonable back-up copies of such data (appropriate to the type of data and the frequency that it is updated).

15.6 Residuals

Notwithstanding anything else contained within this Agreement, Contractor may use in its business activities the ideas, concepts and know-how that are contained in District's Confidential Information or that are developed or provided by District or jointly developed by the parties under any Work Order, and which are retained in the unaided memories of Contractor Personnel who have had access to such ideas, concepts and know-how under this Agreement. Nothing contained in this paragraph modifies any of Contractor's obligations with respect to the Confidential Information.

16. CERTAIN REPRESENTATIONS, WARRANTIES AND COVENANTS

For purposes of this Article 16, all matters to which Contractor represents are true on the Effective Date, and all matters to which Contractor warrants shall continue throughout the Term.

16.1 General Matters

Contractor represents and warrants that it is a duly organized, validly existing and is in good standing under the laws of the state in which it is organized, and is good standing in each other jurisdiction where the failure to be in good standing would have a material adverse effect on its business or its ability to perform its obligations under this Agreement. Contractor represents and warrants that it has all necessary corporate power and authority to own, lease and operate its assets and to carry on its business as presently conducted and as it will be conducted pursuant to this Agreement.

Contractor represents and warrants that it has full power and authority to enter into this Agreement and each Work Order and to perform hereunder and thereunder, and Contractor will exercise commercially reasonable efforts to ensure that such entry and performance do not and will not violate any rights of any third party. Contractor represents and warrants that it has all necessary corporate power and authority to enter into this Agreement and each Work Order and to perform its obligations thereunder. The execution and performance of this Agreement and

the consummation of the transactions contemplated hereby have been and will be duly authorized by all necessary action on its part. This Agreement constitutes a legal, valid and binding obligation of Contractor, enforceable against it in connection with its terms and the terms of each Work Order.

16.2 Efficiency and Cost Effectiveness

Contractor will render the Services in as efficient a manner as is commercially reasonable and will exercise reasonable care to control resources (such as lighting, heating and other utilities) at LAUSD facilities used in providing Services. Contractor will provide the Services using technology that is reasonably intended to enable LAUSD to take advantage of relevant technological advancements.

16.3 Non-infringement and Ownership

If a Deliverable or any Services violate or infringe upon the rights of any third party, including, without limitation, any patent rights, copyright rights, trademark rights, trade secret rights, or other intellectual property rights of any kind, District may seek the remedies set forth in Section 18.2. Contractor is and shall be (a) either the owner of, or authorized to use, the software and related material used in connection with the Services, which is not otherwise owned by LAUSD, and (b) sufficiently authorized to grant to LAUSD the rights, title, interest and/or ownership, specified in Article 10 or the applicable Work Order, in and to materials, information, Documentation, Work Product, or other Deliverables developed by Contractor for LAUSD as part of the Services. Contractor will use commercially reasonable efforts to perform its responsibilities under this Agreement in a manner that does not infringe, or constitute an infringement or misappropriation of, the patent, copyright, trademark, trade secret or other intellectual property rights of a third party.

Contractor shall have sufficient title and rights to license to District, to the extent specified in Article 10 or any applicable Work Order, all Contractor Commercial Software, Contractor Customized Software, and Deliverables.

16.4 Inducements

Contractor represents and warrants to LAUSD that Contractor has not violated and will not violate any applicable laws or regulations, or any LAUSD policies of which Contractor has been given notice, regarding the offering of inducements in connection with this Agreement. In the event that Contractor does not comply with the foregoing, LAUSD will have the right to terminate this Agreement for cause without affording Contractor an opportunity to cure.

16.5 Compliance with Laws

At all times during the Term of this Agreement, Contractor shall, in the performance of Services and the delivery of Deliverables, comply with all federal, state, and local laws and regulations that are applicable to its performance of the Services. Contractor shall further provide District with reasonable assistance in complying with all federal, state, and local laws and regulations applicable to District under any Work Order.

16.6 RESERVED

16.7 Facilities and Conditions

At the facilities used by Contractor to provide the Services to LAUSD, Contractor will comply with the following standards related to Contractor's work force and facilities:

- (a) Contractor shall not use forced or compulsory labor in any form, including, but not limited to, prison, indentured, political, bonded or otherwise. Deposits or similar arrangements shall not be required as a condition of employment.
- (b) Contractor shall not use child labor in any facility providing Services to LAUSD.
- (c) Contractor shall not discriminate based on race, creed, gender, marital or maternity status, religious or political beliefs, age or sexual orientation. Contractor decisions related to hiring, salary, benefits, advancement, termination or retirement shall be based solely on the ability of an individual to do the job.
- (d) Contractor management practices shall recognize the dignity of the individual employees, the rights of free association and collective bargaining, and the right to a work place free of harassment, abuse or corporal punishment.
- (e) Contractor shall provide each employee at least the legal minimum wage or the prevailing industry wage where the facility is located, whichever is higher. Contractor shall provide each employee a clear, written accounting for each wage period and shall not deduct from employee pay for performance or disciplinary issues.
- (f) Contractor shall provide employees with a safe and healthy workplace that does not expose employees to hazardous conditions. Contractor shall have written health, safety and environmental guidelines, including those applying to employee residential facilities, where applicable.

16.8 Warranty on Performance of Deliverables

Except as may otherwise be set forth in a Work Order or under any license agreement for Contractor Commercial Software, for a period of one (1) year from the date of final acceptance of any Deliverable (including, but not limited to any Final Deliverable), such Deliverable (and for any Final Deliverable, the Final Deliverable and each System Deliverable therein) shall perform in accordance with all Final Criteria and Documentation therefor, and any other criteria agreed to by District and Contractor in the computer hardware and/or software environments with which such System Deliverable was intended to operate at the time of installation; provided, however, that this warranty shall not apply to the extent that any Deliverable is modified by LAUSD or any third party without Contractor's written authorization.

16.9 Accuracy of Documentation

Except as may otherwise be required by a Work Order, all Documentation shall be complete and describe the applicable System Deliverable and components thereof accurately so as to enable a staff consisting of a reasonable number of information systems professionals with industry standard skills and experience to fully utilize the System Deliverable for all purposes for which it is being acquired by or intended for use by District. To the extent required by a Work Order, all Code Documentation shall be complete and describe the source code and all components thereof accurately so as to enable computer programmers of ordinary skill and experience who are knowledgeable of the subject matter to fully utilize the source code to understand, support, modify, and otherwise use the software to which it relates.

16.10 No Claims

Contractor represents that there is no action, suit, proceeding, or material claim or investigation pending or threatened against it in any court, or by or before any federal, state, municipal, or other governmental department,

commission, board, bureau, agency, or instrumentality, domestic or foreign, or before any arbitrator of any kind, that, if adversely determined, might adversely affect any Deliverable or restrict Contractor's ability to complete the transactions contemplated by this Agreement, or restrict District's right to use any Deliverable under this Agreement. Contractor knows of no basis for any such action, suit, claim, investigation, or proceeding.

16.11 Third Party Warranties

To the extent that it is legally able to do so, Contractor will assign and transfer to District all warranties received from the supplier (other than Contractor or third parties acting under the control of District) of any component of any System Deliverable for which District does not otherwise have access to such warranties. As applicable, suppliers may provide their own warranties directly to District.

16.12 Disclaimer

THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

17. INSURANCE

17.1 Certification.

Contractor in executing this Agreement hereby certifies, pursuant to Section 1861 of the California Labor Code, as follows:

I am aware of the provisions of Section 3700 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 I will comply with such provisions before commencing the performance of the work of this contract.

17.2 Required Insurance Coverages

Contractor shall, at its sole cost and expense, maintain in full force and effect during the Term insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, as follows:

- (a) Except as set forth in subsection (e) and Section 17.4 below, Commercial Form General Liability Insurance, including both bodily injury and property damage, with limits as follows:
 - (i) \$1,000,000 per occurrence;
 - (ii) \$ 100,000 fire damage;
 - (iii) \$ 5,000 medical expenses;
 - (iv) \$1,000,000 personal & advertising injury;
 - (v) \$3,000,000 general aggregate;
 - (vi) \$3,000,000 products/completed operations aggregate;
- (b) Business Auto Liability Insurance for owned scheduled, non-owned or hired automobiles with a combined single limit of no less than \$1 million per occurrence.
- (c) Workers' Compensation and Employers Liability Insurance in a form and amount covering Contractor's full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws, as follows:
 - (i) Part A – Statutory Limits

(ii) Part B - \$1,000,000/\$1,000,000/\$1,000,000 Employers Liability

If Contractor is not subject to the California Workers' Compensation Insurance and Safety Act, then in lieu of the foregoing requirements, Contractor will complete, execute and deliver to LAUSD the Workers' Compensation Statement attached hereto as Schedule F.

- (d) Except as set forth in subsection (e) below, Errors & Omissions (Professional Liability) coverage, when applicable, with limits of \$1,000,000 per occurrence and \$1,000,000 in the aggregate.
- (e) For any Work Order that exceeds or is reasonably expected to exceed \$500,000 in Charges, Contractor's Errors & Omissions (Professional Liability) Insurance limits will be \$2,000,000 per occurrence under Section 17.2(a)(i) above and \$5,000,000 general aggregate under Section 17.2(a)(v) above, and provided, further, that for any Work Order that exceeds or is reasonably expected to exceed \$1,000,000 in Charges, Contractor's Errors & Omissions (Professional Liability) Insurance limits will be \$5,000,000 per occurrence under Section 17.2(a)(v) above and \$10,000,000 general aggregate under Section 17.2(a)(v) above.
- (f) As long as Contractor's total insurance coverage amounts satisfy all of the requirements of this Section 17.2, Contractor may use a combination of general and excess liability policies. In addition, Contractor may obtain the insurance necessary to satisfy the requirements of this Section 17.2 from an insurer that is not licensed in California only with the prior written approval of the District, which the District may withhold in its sole discretion.

17.3 Evidence of Insurance

Contractor, upon execution of this contract and periodically thereafter upon request, shall furnish District with certificates of insurance evidencing such coverage. The certificate of insurance shall include a provision requiring thirty (30) days advance notice to District of cancellation or non-renewal. The policies of Commercial Form General Liability Insurance and Business Auto Liability Insurance required under Sections 17.2(a) and 17.2(b) shall name District and its Board of Education as additional insureds. Premiums on all insurance policies shall be paid by Contractor at no additional charge to District.

17.4 Additional Insurance

Additional or lesser insurance coverage(s) may be required under a Work Order. District reserves the right to require, with respect to any Work Order and in the coverage amounts specified in such Work Order, Employee Dishonesty and Computer Fraud Insurance for losses arising out of or in connection with fraudulent or dishonest acts committed by the employees of Contractor, acting alone or in collusion with others.

18. INDEMNIFICATION

18.1 Indemnification by Contractor

- (a) Contractor shall defend, indemnify and hold harmless District, its officers, directors, employees, agents, volunteers, and Affiliates and District's Board of Education from any and all damages, costs and expenses, including attorneys' fees, arising out of any third party claims for damages for bodily injury (including death) or for damage to real property or tangible personal property to the extent caused by Contractor's performance of this Agreement.

- (b) In the event District receives a Public Records Act request for any Contractor documents marked “TRADE SECRET,” “CONFIDENTIAL” or “PROPRIETARY,” Contractor agrees to defend, indemnify and hold harmless District, its officers, directors, employees, agents, volunteers, and Affiliates and District’s Board of Education from any and all damages, costs and expenses, including attorneys’ fees, in any action or liability resulting from such Public Records Act request or otherwise arising under the Public Records Act in connection with such request.
- (c) Contractor shall defend, indemnify and hold harmless District, its officers, directors, employees, agents, volunteers, and Affiliates and District’s Board of Education from any and all damages, costs and expenses, including attorneys’ fees, resulting from or arising out of a breach by Contractor or any Contractor Personnel of Section 15.4. Contractor will provide such assistance and provide such Services as are reasonably requested by LAUSD as a result of, or in the furtherance of any investigation of, any breach of security in the LAUSD information technology environment.
- (d) Contractor’s indemnity obligations under this Section 18.1 shall be reduced by the extent (if any) to which the damages, costs or expenses result from the willful or grossly negligent act or omission of LAUSD, its employees or agents.

18.2 Action on Claim of Infringement

- (a) If a third party claims that a Deliverable (or any component of a Deliverable) or any item used by Contractor to provide the Services infringes that party’s patent rights, copyright rights, trademark rights, trade secret rights, or other intellectual property rights of any kind, Contractor will defend District, its officers, directors, employees, agents, volunteers, and Affiliates and District’s Board of Education from any and all damages, costs and expenses, including attorneys’ fees, arising out of or related to that claim, and pay all costs, damages, and attorney’s fees that a court finally awards or that are included in a settlement approved by Contractor, provided that District: (i) notify Contractor in writing of the claim in accordance with Section 18.3; and (ii) allow Contractor to control, and reasonably cooperate with Contractor in, the defense and any related settlement negotiations, as further set forth in Section 18.3.
- (b) If a claim under Section 18.2(a) is made or appears likely to be made, or if any item used by Contractor to provide the Services becomes, or in Contractor’s reasonable opinion is likely to become, the subject of an infringement or misappropriation claim or proceeding, Contractor shall, at its option: (i) replace the same without additional charge, by compatible, functionally equivalent and non-infringing product(s); (ii) modify such Deliverable, or component or part thereof, to avoid the claim or infringement and retain materially similar functionality; or (iii) obtain license(s) for District to continue use of such Deliverable, or component or part thereof, and pay any additional fee required for such license(s). If Contractor determines that none of these alternatives is reasonably available, District agrees to return the Deliverable to Contractor on Contractor’s written request, and Contractor will return all amounts paid under this Agreement (including, but not limited to, taxes, freight, shipping and handling costs, and license fees) for the applicable Deliverable and for any and all other Deliverables, or components or parts thereof, affected by loss of the applicable Deliverable.
- (c) Contractor’s liability under this Section 18.2 shall be subject to an equitable reduction (as determined by written agreement of the parties, or by the court adjudicating the claim) to the extent that any claim arising hereunder is based on (i) any information, design, specification,

instruction, software, data, or material not furnished by or authorized in writing by Contractor, or (ii) the unauthorized alteration of a Deliverable or the combination of a Deliverable with any products or services not provided, performed or authorized in writing by Contractor.

18.3 Indemnification Procedures

- (a) Promptly after receipt by District of any written claim or notice of any action giving rise to a claim for indemnification under this Section 18, District shall so notify Contractor and shall provide copies of such claim or any documents notifying District of the action and shall provide Contractor, at Contractor's expense, with all reasonable assistance in connection therewith. No failure to so notify Contractor shall relieve Contractor of its obligations under this Agreement except to the extent that the failure or delay is prejudicial. Within thirty (30) calendar days following receipt of such written notice, but in any event no later than ten (10) working days before the deadline for any responsive pleading, Contractor shall notify District in writing (a "Notice of Assumption of Defense") if Contractor elects to assume control of the defense and settlement of such claim or action.
- (b) If Contractor timely delivers a Notice of Assumption of Defense, Contractor shall have sole control over the defense and settlement of such claim or action; provided, however, that (i) District shall be entitled to participate in the defense of such claim or action and to employ counsel at its own expense to assist in the handling of such claim or action, and (ii) Contractor shall notify District in writing if Contractor intends to enter into any settlement of such claim or action (other than a settlement solely for the payment of money that Contractor is obligated to pay under this Section, for which Contractor shall only be required to notify District upon entry into such settlement) and shall not enter into such settlement without District's prior written consent, which consent shall not be unreasonably withheld.
- (c) If Contractor does not timely deliver a Notice of Assumption of Defense, District may defend the claim or action in such a manner as it may deem appropriate, at Contractor's expense. Contractor shall promptly reimburse any and all costs and expenses of defense, including attorneys' fees, upon District's written request therefor.

19. LIMITATION OF LIABILITY

EXCEPT AS MAY BE EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NEITHER PARTY HERETO SHALL BE LIABLE TO THE OTHER PARTY FOR ANY LOST PROFITS, LOST DATA OR PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Except as set forth below, Contractor's maximum liability to District arising out of this Agreement will not exceed the aggregate of: (a) damages for bodily injury (including death) and for damage to real property and tangible personal property; and (b) the amount of any other actual direct damages up to the greater of \$200,000 or the total dollar amount paid to Contractor by District under all Work Orders (completed or in process) during the period commencing on the date set forth on the first page of this Agreement as the date upon which this Agreement was made and entered into and ending on the date of the claim giving rise to damages hereunder.

Notwithstanding anything to the contrary in this Agreement, this Section shall not apply to damages for claims for any of the following: (i) Contractor's gross negligence or willful misconduct; (ii) Contractor's breach of its confidentiality obligations; (iii) any Contractor payments required under Section 18.1 or Section 18.2 above; and (iv) Contractor's violations of law.

20. REMEDIES AND TERMINATION

20.1 Errors and Defects Escalation Procedures

If District notifies Contractor of any material failure in performance of Services or material failure of a System Deliverable to operate as warranted, Contractor, at its own expense, shall promptly analyze the description of the circumstances relating to such material failure. The initial determination of priority, as described below, shall be made solely by District in its reasonable discretion by reference to the priority levels described in this Section 20.1. Contractor's obligations under this Section 20.1 are in addition to Contractor's remediation obligations for Deliverables that are rejected under the terms of Section 7.2 or Section 7.3, and Contractor's obligations under this Section 20.1 may arise at any time, including before District provides written notice of acceptance of any Deliverable or Final Deliverable. Contractor shall respond to notice from the District under this Section as follows:

- (a) **Priority 1.**
A "Priority 1" condition is any failure caused by a System Deliverable or by Contractor's performance of Services that precludes all work from being done on a computer system or that materially impairs a major function of a computer system or software. Nonexclusive examples include system crashes, database-wide information corruption, and incorrect writing of critical fields. Priority 1 conditions are the highest in severity, for which District shall receive a response within one hour from Contractor's project executive or his or her designee, and a correction within four hours. If a Priority 1 condition cannot be corrected within four hours, then: (i) after four hours, Contractor's project executive will notify Contractor's on-call support team, who will immediately commence efforts to remedy the problem; (ii) after eight hours, Contractor's national sales manager and operations manager will become involved and will identify and deploy the resources necessary to correct the problem; and (iii) after twelve hours, Contractor's president will become involved, and, if necessary, Contractor will dispatch a team to District's location to correct the problem.
- (b) **Priority 2.**
Any condition that impairs one or more functions that a System Deliverable is warranted to perform or that results from Contractor's performance of the Services and impairs District's use of any aspect of its information technology environment, but that does not involve a Priority 1 condition and is not a Priority 3 condition, is a "Priority 2" condition. Nonexclusive examples include database information corruption for a single District customer or incorrect writing of non-critical fields. Priority 2 conditions are less severe than Priority 1 conditions. For Priority 2 conditions, District shall receive a response within four hours from the time Contractor is notified. Whenever possible, Priority 2 conditions will be addressed by providing a patch or suggested work-around to accommodate District's needs within eight hours, with a correction within 24 hours. If a patch or work-around cannot be provided within eight hours, the problem shall be escalated to a Priority 1 condition and treated as set forth above.
- (c) **Priority 3.**
Any condition that constitutes a non-material defect or error in one or more functions that a System Deliverable is warranted to perform is a "Priority 3" condition. Nonexclusive examples include minor bugs and annoyances. Priority 3 conditions are the least severe. For Priority 3 conditions, District shall receive a response within 48 hours from the time Contractor is notified. Contractor shall use reasonable efforts to correct Priority 3 conditions within three weeks. There is no escalation policy for a Priority 3 condition.

- (d) **Inability to Correct.**
If Contractor is unable to correct a Priority 1 or Priority 2 condition within ten calendar days after the date Contractor is notified of the Priority 1 or Priority 2 condition, District may, in its sole discretion, (i) withhold payment of any amount due under this Agreement with respect to the portion(s) or component(s) of the Work Order or System Deliverable affected by the Priority 1 or Priority 2 condition until the condition is corrected; (ii) reject the System Deliverable or any part thereof or revoke acceptance and immediately terminate, under Section 20.3 herein (but without any requirement of a 30-day cure period), the applicable Work Order, along with, in District's discretion, any related Work Order(s); or (iii) exercise any other remedy available at law, in equity, by statute, under this Agreement or otherwise.
- (e) **Remedies for Delay in Performing Critical Tasks**
If any task identified in a Work Order as a "Critical Task" is not completed and or delivered on the date specified in the Work Order, and such delay is not materially caused by any fault of District, District may (i) agree to extend the date upon which such task is to be completed and/or delivered, or (ii) immediately terminate this Agreement under Section 20.3. To the extent that any delay is materially caused by any fault of the District, then District will make reasonable and appropriate adjustments to the due date for such task, as determined in consultation with Contractor, to account for this delay.
- (f) **Nonexclusivity**
Except as explicitly set forth in this Agreement, no remedy set forth in this Agreement for breach of this Agreement is intended to be exclusive of any other remedy. Each remedy for breach shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute or otherwise.

20.2 Termination by Contractor

Contractor may, by giving written notice to LAUSD, terminate this Agreement or a Work Order as of a date specified in the notice of termination only in the event that LAUSD fails to: (a) pay Contractor when due undisputed Charges under a Work Order, and (b) make payment of such Charges within ninety (90) calendar days after receipt of written notice from Contractor of such failure to make payment.

20.3 Termination by LAUSD for Cause

- (a) LAUSD may, by giving written notice to Contractor, terminate any or all Work Orders, or any part of a Work Order:
 - (i) subject to Section 20.3(a)(ii), for a material breach of a single Work Order by Contractor that is not cured by Contractor within thirty (30) calendar days after LAUSD provides written notice of such breach;
 - (ii) for a material breach of a single Work Order by Contractor that is not reasonably subject to cure within thirty (30) calendar days after its occurrence;
 - (iii) for numerous or repeated breaches of one or more Work Orders (even if subsequently cured) that collectively constitute a material breach; or
 - (iv) for a material breach of the terms of this Agreement by Contractor that is not cured by Contractor within thirty (30) calendar days after LAUSD provides written notice of such breach, or for numerous or repeated breaches of this Agreement (even if subsequently cured) that collectively constitute a material breach.

- (b) LAUSD shall exercise its termination right hereunder by delivering to Contractor written notice of the breach or breaches under Section 20.3(a) giving rise to such termination right. Where Section 20.3(a) provides for a cure period, the applicable Work Order(s) or this Agreement will automatically and immediately terminate upon expiration of such cure period if the breach identified in LAUSD's notice has not been cured. If LAUSD chooses to terminate a Work Order in part, the Charges payable under such Work Order will be equitably adjusted to reflect those Services that are not terminated.

20.4 Termination by LAUSD for Convenience

- (a) LAUSD may terminate any Work Order immediately for convenience and without cause at any time by giving Contractor written notice designating the termination date, which in no case will be less than fifteen (15) calendar days after the date of such notice without Contractor's approval, and paying to Contractor either: (i) in the case of a Work Order under which Services are charged on a time and materials basis, the unpaid Charges for Services performed by Contractor prior to the effective date of termination; or (ii) in the case of a Work Order under which Services are charged on a fixed-fee or milestone basis, (1) the unpaid Charges due for completed Deliverables (or portions thereof) accepted by LAUSD prior to the effective date of termination, and (2) unpaid Charges (calculated on a time and materials basis) for Services performed by Contractor for Deliverables (or portions thereof) that are not completed or have not been accepted by LAUSD prior to the effective date of termination. Upon receipt of any termination notice from LAUSD hereunder, Contractor will immediately commence efforts to cease all affected Services, and will take all reasonable steps to minimize charges, fees or other costs that might be incurred by LAUSD after the date that LAUSD provides termination notice hereunder.
- (b) If LAUSD chooses to terminate a Work Order in part, the charges payable under such Work Order will be equitably adjusted to reflect those Services that are not terminated.
- (c) If a purported termination for cause by LAUSD under Section 20.3 is determined not to be a proper termination for cause, such termination shall be deemed a termination for convenience subject to this Section 20.4.

20.5 Termination by LAUSD for Non-Appropriation

If District is not appropriated adequate funds for or to continue this Agreement or any Work Order, District shall provide written notification to Contractor of non-appropriation of funds (a "Non-Appropriation Notice"). In such event, District will have no further liability hereunder except with respect to payment for Services rendered up to the date of Contractor's receipt of the Non-Appropriation Notice. This Agreement and all Work Orders will terminate effective as of the date of the Non-Appropriation Notice, unless the Non-Appropriation Notice specifically provides otherwise.

20.6 Termination for Change of Control

In the event that Contractor undergoes a change in control where voting or other control of Contractor is acquired, directly or indirectly, in a single transaction or series of related transactions, or all or substantially all of Contractor's assets are acquired, by any entity (other than an Affiliate), or Contractor is merged with or into another entity (other than an Affiliate) to form a new entity, then, at any time within nine (9) months after the last to occur of these events, LAUSD may terminate this Agreement or one or more Work Orders by (a) giving Contractor ninety (90) calendar days' prior written notice and (b) designating a date upon which the termination(s) will be effective.

20.7 Termination for Insolvency

LAUSD may terminate this Agreement in its entirety (including all Work Orders) if Contractor (a) becomes insolvent or is unable to meet its debts as they mature, (b) files a voluntary petition in bankruptcy or seeks reorganization or to effect a plan or other arrangement with creditors, (c) files an answer or other pleading admitting, or fails to deny or contest, the material allegations of an involuntary petition filed against it pursuant to any applicable statute relating to bankruptcy, arrangement or reorganization, (d) is adjudicated a bankrupt or makes an assignment for the benefit of its creditors generally, (e) applies for, consents to or acquiesces in the appointment of any receiver or trustee for all or a substantial part of its property, or (f) any such receiver or trustee is appointed and not discharged within thirty (30) calendar days after the date of such appointment.

20.8 Extension of Termination Effective Date

LAUSD may, at its option, upon thirty (30) calendar days prior notice, extend any termination date it has specified pursuant to this Article 20 one or more times. In such event, the Services shall be provided pursuant to and on the terms and conditions set forth in this Agreement and each applicable Work Order and LAUSD shall compensate Contractor as specified in the applicable Work Order.

20.9 Effect of Termination

Termination of this Agreement or any Work Order for any reason under this Section shall not affect (a) any liabilities or obligations of either party arising before such termination or out of the events causing such termination, or (b) any damages or other remedies to which a party may be entitled under this Agreement or any Work Order, at law or in equity, arising from any breaches of such liabilities or obligations.

20.10 Termination Assistance

If any Work Order is terminated prior to completion, for a period of at least thirty (30) calendar days, Contractor, upon request, will provide to LAUSD or its designee termination assistance on a time and materials basis up to the total amount that the District has authorized for payment under the applicable Work Order, to allow the Services to continue without interruption or adverse effect and to facilitate the orderly transfer of the Services to District or to another contracted provider. Contractor will make available to LAUSD such information as LAUSD may reasonably request for purposes of transferring the Services back into LAUSD or the purposes of procuring services similar to the Services from a third party.

21. MISCELLANEOUS

21.1 Applicable Law

All questions concerning the validity, interpretation and performance of this Agreement and the transactions it contemplates shall be governed by and decided in accordance with the laws of the State of California without regard to choice of law principles.

21.2 Jurisdiction and Venue

The parties hereby submit and consent to venue in and the exclusive jurisdiction of any state or federal courts located within the City of Los Angeles and irrevocably agree that all actions or proceedings

relating to this Agreement shall be litigated in such courts, and each of the parties waives any objection which it may have based on improper venue or forum non conveniens to the conduct of any such action or proceeding in such court. Contractor consents to be joined in any action or proceeding in which LAUSD is a defendant and for which Contractor is required to indemnify LAUSD pursuant to the provisions of this Agreement.

21.3 UCITA

To the maximum extent permitted under applicable law, this Agreement shall not be subject to the Uniform Computer Information Transactions Act (prepared by the National Conference of Commissioners on Uniform State Laws) as currently enacted or as may be codified or amended from time to time by any jurisdiction.

21.4 Equitable Remedies

The parties agree that (a) in the event of any breach or threatened breach of any provision of this Agreement or any Work Order concerning (i) Confidential Information, (ii) intellectual property rights, or (iii) other matters for which equitable rights may be granted, money damages would be an inadequate remedy; and (b) if either party makes a good faith determination that a breach of this Agreement is such that the damages to the party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy; then a party may seek immediate injunctive relief and such provisions may be enforced by the preliminary or permanent, mandatory or prohibitory injunction or other order of a court of competent jurisdiction.

21.5 Interpretation

The parties are sophisticated and have been represented by counsel during the negotiation of this Agreement and each Work Order. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.

21.6 Binding Nature and Assignment

Contractor may not assign, voluntarily or by operation of law, any of its rights or obligations under this Agreement without the prior written consent of District. Subject to the foregoing, this Agreement and each Work Order shall be binding on the parties and their respective successors and permitted assigns.

21.7 Expenses

Except as expressly provided in this Agreement, each party shall pay its own fees and expenses (including, without limitation, the fees and expenses of its agents, representatives, attorneys and accountants) incurred in connection with the negotiation, drafting, execution, delivery and performance of this Agreement and the transactions it contemplates.

21.8 Amendment and Waiver

No supplement, modification, amendment or waiver of this Agreement or any Work Order shall be binding unless executed in writing by the parties in accordance with the terms hereof. No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or be construed as a further or continuing waiver of any such

term, provision or condition or as a waiver of any other term, provision or condition of this Agreement.

21.9 Further Assurances; Consents and Approvals

Each party shall provide such further documents and instruments and take such other actions as may be reasonably necessary or desirable to give effect to this Agreement and to carry out its provisions. Whenever this Agreement requires or contemplates any action, consent or approval of a party, such party shall act reasonably and in good faith and (unless this Agreement expressly allows exercise of a party's sole discretion) shall not unreasonably withhold or delay such action, consent or approval.

21.10 Publicity

All media releases, public announcements and other disclosures by Contractor relating to this Agreement, including promotional or marketing materials, but excluding announcements intended solely for internal distribution or to meet legal or regulatory requirements, shall be coordinated with and approved by LAUSD prior to release. Contractor may not use LAUSD's name or any of LAUSD's trade names, trademarks, service marks, slogans, logos or designs for any advertising, promotional or other purpose, which is not necessary in Contractor's performance under this Agreement without the prior, written permission of LAUSD.

21.11 Severability

If any provision of this Agreement is determined by any court of competent jurisdiction to be invalid or unenforceable (other than provisions going to the essence of this Agreement), such provision shall be interpreted to the maximum extent to which it is valid and enforceable, all as determined by such court in such action, and the remaining provisions of this Agreement will, nevertheless, continue in full force and effect without being impaired or invalidated in any way.

21.12 Entire Agreement

This Agreement, each of the Work Orders and all Schedules constitute the entire agreement between the parties pertaining to the subject matter hereof and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties pertaining to the subject matter hereof.

21.13 Notices

Any notice, demand or other communication required or permitted to be given under this Agreement or any Work Order shall be in writing and shall be deemed delivered to a party (a) when delivered by hand or courier, (b) when sent by confirmed facsimile with a copy sent by another means specified in this Section, or (c) three (3) calendar days after the date of mailing if mailed by United States certified mail, return receipt requested, postage prepaid, in each case to the address of such party set forth below (or at such other address as the party may from time to time specify by notice delivered in the foregoing manner):

If to Contractor, to the address set forth by Contractor's signature below, or such other address as the parties may mutually agree.

If to LAUSD:

Los Angeles Unified School District, Information Technology Division
Attention: Deputy Chief Information Officer
333 S. Beaudry Avenue, 10th Floor
Los Angeles, CA 90017
Fax: (213) 241-8400

With Required Copies to:

Los Angeles Unified School District, Office of General Counsel
Attention: Gregory L. McNair, Esq.
333 S. Beaudry Avenue, 20th Floor
Los Angeles CA 90017
Fax: (213) 241-3316

-and-

Los Angeles Unified School District, Procurement Services
Attention: Yvette Merriman-Garrett, Interim Director, Procurement Services
333 S. Beaudry Avenue, 22nd Floor
Los Angeles, CA 90017
Fax: (213) 241-6845

In addition, a copy of all questions and notices relating to contractual matters under this Agreement will be delivered electronically to District's Contract Administration Analyst, Lilia Muñoz, at lilia.munoz@lausd.net (or to such other individual as District may designate in accordance with this section), and each Work Order will include contact information for the District representative(s) to whom Contractor should direct technical matters under such Work Order.

21.14 Survival

Any provision of this Agreement or of any Work Order which contemplates performance or observance subsequent to any termination or expiration of this Agreement or of any Work Order, including (without limitation) Article 10, Article 12, Section 13.4, Article 15, Article 16, Article 18, Article 19, Article 20 and Article 21, shall survive expiration or termination of this Agreement or any Work Order.

21.15 Independent Contractors

Contractor shall perform its obligations under this Agreement as an independent contractor of LAUSD. Nothing herein shall be deemed to constitute Contractor and LAUSD as partners, joint venturers, or principal and agent. Contractor has no authority to represent LAUSD as to any matters, except as expressly authorized in this Agreement or in a Work Order. This Agreement in no way creates an employee/employer relationship between Contractor Personnel and LAUSD.

21.16 Third Party Beneficiaries

Except for third parties specifically entitled to indemnification under the terms of, and as set forth in, Article 18, nothing in this Agreement or in any Work Order, express or implied, is intended to confer on rights, benefits, remedies, obligations or liabilities on any person (including, without limitation, any employees of the parties) other than the parties or their respective successors or permitted assigns.

21.17 Cumulative Remedies

Except as otherwise expressly provided in this Agreement, remedies provided for herein will be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity or otherwise.

21.18 Counterparts

This Agreement and each Work Order may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument.

21.19 Force Majeure

Neither party shall be liable for failure to fulfill its obligations under this Agreement (other than a failure to pay money) where such failure or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the nonperforming party through the use of alternate sources, work-around plans or other means, and if that failure is caused, directly or indirectly, by flood, extreme weather, fire, mud slide, earthquake, or other natural calamity or act of God, interruption in water, electricity, heating or air conditioning (depending on the season), riots, civil disorders, rebellions or revolutions, acts of governmental agencies, quarantines, embargoes, labor disputes affecting vendors or subcontractors and for which the party claiming force majeure is not responsible, or any other similar cause beyond the reasonable control of that party (each, a "Force Majeure Event"). The occurrence of a force majeure event suffered by another customer of Contractor that may require Contractor to allocate additional resources to service that customer shall not constitute a Force Majeure Event under this Agreement that excuses Contractor's performance hereunder or permits it to reallocate required resources away from the performance of this Agreement. If either party is delayed by a Force Majeure Event it shall promptly notify the other party by telephone and describe in reasonable detail the nature of the Force Majeure Event (to be confirmed in writing within five calendar days after the inception of such delay). Any party claiming a Force Majeure Event hereunder shall: (a) use reasonable efforts to overcome the effects of the Force Majeure Event; (b) use reasonable efforts to mitigate any effects or consequences of such Force Majeure Event; and, (c) promptly notify the other party once the Force Majeure Event has ended or its effects have otherwise been remedied. If any Force Majeure Event results in a failure to deliver the Services for more than five business days after District's initial receipt of notice, District may, upon notice to Contractor, terminate the applicable Work Order without any liability to Contractor other than payment for Services rendered prior to the occurrence of the Force Majeure Event.

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THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE DULY EXECUTED.

-DISTRICT-

-CONTRACTOR-

**LOS ANGELES UNIFIED SCHOOL
DISTRICT**

CONTRACTOR NAME

BY LOS ANGELES UNIFIED SCHOOL
DISTRICT BOARD OF EDUCATION

BY _____

BY _____

Yvette Merriman-Garrett
Interim Director
Procurement Services

(PRINT NAME)

TITLE _____

Dated _____

Fed. I.D. #: _____

Dated _____

ATTACHMENT 5

SMALL BUSINESS ENTERPRISE (SBE) UTILIZATION PROGRAM

- A. It is the District's policy to encourage participation by Small Business Enterprise (SBE) firms in contract activity. On February 25, 2003 the Board of Education established a Small Business Enterprise (SBE) goal to "Establish a District-wide small business participation goal of 25 percent for all contracts and procurement activities". Bidders/ Respondents, which include SBE firms in their proposal/bid, must detail the SBE status of those firms on the SBE Utilization Report.

Firms, which meet the United States Small Business Administration size standards, or which have already been recognized by the LAUSD as a small business, or which, are certified by a government agency or third party entity shall be considered SBE for the purposes of this program. The use of SBE partners/sub-contractors or participation in Federal agency small business programs will also be accepted as a response. Bidders/Respondents are responsible for the verification of the SBE status of any firm represented as an SBE firm used in any proposal or bid. Misrepresentation of a firms' SBE status may jeopardize future contracting opportunities.

Size standards may be viewed at:

<http://www.sba.gov/services/contractingopportunities/sizestandardsttopics/index.html>

- B. The LAUSD affirmatively assures that all firms will be afforded full opportunity to submit bids/proposals in response to this IFB/RFP and will not be discriminated against on the grounds of race, sex, color, religion, ancestry, national origin, marital status, age (over 40), or disability (including AIDS, and cancer-related medical condition) in consideration for an award.
- C. LAUSD advises potential bidders/Respondents that the SBE participation which the bidder/Respondent commits to in their bid/proposal package becomes the goal of record. The LAUSD will enforce the SBE participation proposed.
- D. Firms claiming SBE participation must execute a copy of the SBE Utilization Report included in this IFB/RFP package, and include it in their RFP/IFB response. Firms not submitting an SBE Utilization report may be determined to have no SBE participation.

MONITORING/PENALTIES

The Procurement Services Group will be responsible for monitoring the SBE program,

If any firm listed on the SBE Utilization Report as an SBE is found not be an SBE, such finding may affect any future determination of responsibility for the firm(s) submitting the report.



**LOS ANGELES UNIFIED SCHOOL DISTRICT
SMALL BUSINESS ENTERPRISE PROGRAM
SBE UTILIZATION REPORT**

The Los Angeles Unified School District encourages participation by Small Business Enterprise (SBE) firms in procurement activity. Respondents/ bidders including SBE firms in their responses must execute a copy of this Report and include it with their IRFQ response. Firms, which do not return this report, may be determined to have no SBE participation. Bidders/Respondents that are SBE firms shall check the first box on the form. Majority firms responding to the SBE program will list SBE sub-contractors/partners or attach their annual small business contracting report (SF-295, Dept. of Agriculture SBE report, etc.) Size standards, which define SBE status, are available at: <http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html>

Firm Name _____ **IRFQ#** _____

SBE STATUS (check one)

Our firm(s) meet(s) the qualification for SBE status as defined in the Small Business Administration size standards, or is certified by a government or third party entity.

Our firm utilizes SBE subcontractors. (List SBE firms utilized and the percentage)

Our firm participates in a Federal agency small business utilization program. (Attach report)

No SBE utilization

Non-profit organization

Educational institution

Government agency

By signing below, bidders/Respondents represent that this is an accurate representation of the SBE status or utilization for the firm(s) participating in this contract.

Representative _____ Title _____

Date _____ Telephone _____

NAME OF ORGANIZATION:	LAUSD VENDOR ID#:	LAUSD VENDOR SINCE:
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LOS ANGELES UNIFIED SCHOOL DISTRICT
Section II – Certifications
II.B2 - Compliance with LAUSD Ethics and Integrity Standards

Every Contractor and its Representatives must abide by LAUSD’s Contractor Code of Conduct. A “Contractor” is any individual, organization, corporation, sole proprietorship, partnership, nonprofit, joint venture, association, or any combination thereof that is pursuing or conducting business with and/or on behalf of LAUSD, including, without limitation, consultants, suppliers, manufacturers, and any other vendors, bidders or proposers. A Contractor’s “Representative” is broadly defined to include any subcontractor, employee, agent, or any other entity acting on a Contractor’s behalf.

If a Contractor or its Representative is not knowledgeable about the necessary ethical requirements for establishing a business relationship with LAUSD, he or she shall visit the LAUSD Ethics Office website at: www.lausd.net/ethics, or refer any questions to the designated contracting official. Failure to meet LAUSD’s ethics standards and requirements could result in sanctions including, but not limited to, voidance of any current or future contracts. LAUSD reserves the right to disqualify any bid or proposal as non-responsive, if this certification is not submitted in whole by the deadline required.

1. ETHICS AGREEMENT

I, THE UNDERSIGNED AFFIRM, UNDER PENALTY OF PERJURY BY THE LAWS OF THE STATE OF CALIFORNIA, THAT I AM AUTHORIZED, AS THE SENIOR EXECUTIVE RESPONSIBLE FOR MY ORGANIZATION’S ETHICAL CONDUCT, TO EXECUTE THIS CERTIFICATION ON BEHALF OF MY ORGANIZATION AND OUR REPRESENTATIVES* AND TO ENSURE THAT EACH AND EVERY REPRESENTATIVE ABIDES BY LAUSD’S ETHICS AND INTEGRITY STANDARDS IN ACCORDANCE WITH LAUSD’S CONTRACTOR CODE OF CONDUCT WHICH I HAVE REVIEWED IN FULL. I DECLARE THAT ALL REPRESENTATIONS MADE IN THIS CERTIFICATION ARE TRUE, CORRECT AND IN GOOD FAITH, AND I COMMIT TO PROVIDING AN UPDATED FORM WITHIN 10 BUSINESS DAYS WHENEVER THERE IS A MATERIAL CHANGE TO THE INFORMATION I HAVE PROVIDED DURING THE TERM OF OUR CONTRACT WITH LAUSD.

* You will need to attach a list of all known representatives who will conduct LAUSD work on your behalf (see Section 7).

SENIOR EXECUTIVE RESPONSIBLE FOR YOUR ORGANIZATION’S ETHICS AND INTEGRITY:			
NAME OF RESPONSIBLE SENIOR OFFICER	POSITION TITLE	PHONE NUMBER	
SIGNATURE OF RESPONSIBLE SENIOR OFFICER	DATE	E-MAIL ADDRESS	

2. ETHICAL MANAGEMENT (PLEASE COMPLETE EACH LINE BELOW):

A.	MY ORGANIZATION TAKES RESPONSIBILITY FOR ENSURING THAT EACH OF OUR REPRESENTATIVES, REGARDLESS OF POSITION, UNDERSTANDS AND COMPLIES WITH THE DUTIES AND REQUIREMENTS OUTLINED IN LAUSD’S CONTRACTOR CODE OF CONDUCT AND FOR ENSURING THAT WE ADHERE TO THE HIGHEST STANDARDS OF HONESTY AND INTEGRITY IN ALL OUR DEALINGS WITH AND/OR ON BEHALF OF LAUSD.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
B.	MY ORGANIZATION HAS AN EFFECTIVE MANAGEMENT PROCESS IN PLACE TO ENSURE THAT THE BEHAVIOR, DECISIONS, AND ACTIONS OF OUR REPRESENTATIVES DEMONSTRATE THE LETTER AND SPIRIT OF LAUSD’S ETHICS AND INTEGRITY STANDARDS IN <u>ALL</u> PHASES OF ANY RELATIONSHIP WITH LAUSD.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.	DESCRIBE BRIEFLY THE SCOPE OF YOUR ORGANIZATION’S EFFORTS TO MANAGE FOR AND ASSURE ETHICAL CONDUCT, ATTACH AN ADDITIONAL SHEET OF PAPER IF NECESSARY:		
D.	BY INITIALING HERE, I CERTIFY THAT MY ORGANIZATION AND OUR REPRESENTATIVES WILL EXERCISE CAUTION AT ALL TIMES TO ENSURE THAT OUR CONDUCT AVOIDS EVEN THE APPEARANCE OF IMPROPRIETY OR MISREPRESENTATION. WE WILL BE PROACTIVE IN ASKING QUESTIONS AND SEEK FORMAL GUIDANCE FROM LAUSD WHENEVER THERE IS A DOUBT ABOUT HOW TO PROCEED IN AN ETHICAL MANNER.	<div style="border: 1px solid black; width: 100px; height: 40px; margin: 0 auto;"></div>	

3. CONTRACTOR RESPONSIBILITY (PLEASE COMPLETE EACH LINE BELOW):

For each "No" answer below, attach an additional sheet of paper with the heading "Contractor Responsibility" and provide an explanation that is brief, concise, and to the point which gives: 1) a detailed description of the issue and its cause, 2) the actions taken or being implemented to ensure that the issue will not occur again, 3) the name, position, and contact info for the individual in your organization charged with ensuring the issue will not be repeated, and 4) the impact, if any, the issue will have on the products or services you have proposed to LAUSD for this contract.

A.	MY ORGANIZATION AND OUR REPRESENTATIVES DEMONSTRATE A RECORD OF INTEGRITY AND BUSINESS ETHICS IN ACCORDANCE WITH ALL LOCAL, STATE AND FEDERAL LAWS, ORDINANCES, DIRECTIVES AND REGULATIONS AS WELL AS THE POLICIES AND REQUIREMENTS ESTABLISHED BY LAUSD.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
B.	MY ORGANIZATION, INCLUDING ANY PRINCIPAL, OWNER, OFFICER, PARTNER, MAJOR STOCKHOLDER, SUBSIDIARY, AND ALL OTHER REPRESENTATIVES ACTING ON OUR BEHALF, HAS NOT BEEN THE SUBJECT OF A CRIMINAL INVESTIGATION, INDICTMENT, CONVICTION, JUDGMENT, INJUNCTION, OR A GRANT OF IMMUNITY, INCLUDING PENDING ACTIONS, FOR BRIBERY, EMBEZZLEMENT, EXTORTION, FALSIFICATION, FORGERY, MAKING FALSE STATEMENTS OR, <u>ANY</u> OTHER BUSINESS OR ETHICS RELATED CONDUCT CONSTITUTING A CRIMINAL OFFENSE UNDER FEDERAL, STATE OR LOCAL LAW WITHIN THE LAST SEVEN (7) YEARS.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.	MY ORGANIZATION, INCLUDING ANY PRINCIPAL, OWNER, OFFICER, PARTNER, MAJOR STOCKHOLDER, SUBSIDIARY, AND ALL OTHER REPRESENTATIVES ACTING ON OUR BEHALF, HAS NOT BEEN THE SUBJECT OF A FEDERAL, STATE, LOCAL GOVERNMENT, OR LAUSD SUSPENSION, DEBARMENT, ADMINISTRATIVE AGREEMENT, DENIAL OF CONTRACT AWARD, DECLARATION OF INELIGIBILITY, OR BID REJECTION, INCLUDING PENDING ACTIONS, FOR NON-RESPONSIBILITY WITHIN THE LAST SEVEN (7) YEARS.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
D.	MY ORGANIZATION, INCLUDING ANY PRINCIPAL, OWNER, OFFICER, PARTNER, MAJOR STOCKHOLDER, SUBSIDIARY, AND ALL OTHER REPRESENTATIVES ACTING ON OUR BEHALF, HAS NOT BEEN THE SUBJECT OF A FEDERAL, STATE, LOCAL GOVERNMENT, OR LAUSD ADMINISTRATIVE PROCEEDING OR CIVIL ACTION SEEKING SPECIFIC PERFORMANCE, RESTITUTION, CONTRACT SUSPENSION, OR TERMINATION FOR CAUSE, INCLUDING PENDING ACTIONS WITHIN THE LAST SEVEN (7) YEARS.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
E.	MY ORGANIZATION, INCLUDING ANY SUBSIDIARY OR PREDECESSOR COMPANY OR ENTITY UNDER A DIFFERENT BUSINESS NAME, HAS NOT BEEN THE SUBJECT OF A BANKRUPTCY PROCEEDING, INCLUDING ANY PENDING BANKRUPTCY PROCEEDINGS WITHIN THE PAST SEVEN (7) YEARS.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
F.	MY ORGANIZATION HAS THE FINANCIAL RESOURCES AND MANAGEMENT CAPACITY NECESSARY TO FULFILL THE REQUIREMENTS OF OUR PROPOSED CONTRACT WITH LAUSD.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
G.	MY ORGANIZATION, INCLUDING ANY PRINCIPAL, OWNER, OFFICER, PARTNER, MAJOR STOCKHOLDER, SUBSIDIARY, AND ALL OTHER REPRESENTATIVES ACTING ON OUR BEHALF, HAS NOT, TO OUR KNOWLEDGE, BEEN THE SUBJECT OF A POOR PERFORMANCE COMPLAINT, CONFLICT OF INTEREST CONCERN, OR OTHER ETHICS INQUIRY AT LAUSD.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
H.	BY INITIALING HERE, I CERTIFY THAT MY ORGANIZATION AND OUR REPRESENTATIVES WILL BE PROACTIVE IN DISCLOSING TO LAUSD ANY ISSUES CONCERNING OUR RESPONSIBILITY, SO THAT THE APPROPRIATE ACTIONS CAN BE TAKEN TO AVOID IMPACT TO THE PRODUCTS OR SERVICES WE WILL DELIVER TO LAUSD.		

4. CONTRACTING EXCELLENCE (PLEASE COMPLETE EACH LINE BELOW):

A.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL MAINTAIN A CONE OF SILENCE AND AVOID ALL PROHIBITED COMMUNICATIONS WITH LAUSD OFFICIALS DURING THE REQUIRED TIMES OF LAUSD'S CONTRACTING PROCESS. WE WILL NOT REQUEST OR ACCEPT – EITHER DIRECTLY OR INDIRECTLY – ANY PROTECTED INFORMATION REGARDING PRESENT OR FUTURE CONTRACTS BEFORE THE INFORMATION IS MADE PUBLICLY AVAILABLE AT THE SAME TIME AND IN THE SAME FORM TO ALL OTHER POTENTIAL BIDDERS.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
B.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL PROTECT THE CONFIDENTIALITY OF ALL INFORMATION GARNERED THROUGH THE CONTRACTING PROCESS AND OUR WORK WITH LAUSD. WE UNDERSTAND THAT USING SUCH INFORMATION, DIRECTLY OR INDIRECTLY, FOR PERSONAL, FINANCIAL OR OTHER PRIVATE INTERESTS IS STRICTLY PROHIBITED.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.	MY ORGANIZATION, INCLUDING ANY PRINCIPAL, OWNER, OFFICER, PARTNER, MAJOR STOCKHOLDER, SUBSIDIARY, AND ALL OTHER REPRESENTATIVES ACTING ON OUR BEHALF, HAS NOT PARTICIPATED IN <u>ANY</u> ASPECT OF DEVELOPING THE SCOPE OF WORK, SOLICITATION DOCUMENTS, TECHNICAL SPECIFICATIONS, EVALUATION CRITERIA, PROCUREMENT CONSIDERATIONS, OR OTHER CONTRACTUAL INSTRUMENTS FOR THIS CONTRACT.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

D.	MY ORGANIZATION AND OUR REPRESENTATIVES KNOW OF NO LAUSD OFFICIAL WITH AN ECONOMIC INTEREST IN OUR ORGANIZATION OR OUR REPRESENTATIVES WHO HAS PARTICIPATED IN <u>ANY</u> ASPECT OF THIS CONTRACT. WE KNOW THAT AN ECONOMIC INTEREST EXISTS WHENEVER AN OFFICIAL, HIS OR HER SPOUSE, AND ANY DEPENDENT CHILDREN HAS A DIRECT OR INDIRECT FINANCIAL INTEREST OR LIABILITY IN EXCESS OF \$1000 IN AN ENTITY; HAS RECEIVED INCOME WITHIN THE PAST 12 MONTHS FROM THE ENTITY; HAS SERVED AS AN OFFICER, DIRECTOR, COMMITTEE MEMBER OR AN EMPLOYEE OF THE ENTITY (EVEN IN AN UNPAID CAPACITY); OR HAS RECEIVED A GIFT FROM AN ENTITY OVER LAUSD'S GIFT LIMIT.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
E.	BY INITIALING HERE, I CERTIFY THAT MY ORGANIZATION AND OUR REPRESENTATIVES WILL ABIDE BY ALL THE INTEGRITY REQUIREMENTS OF LAUSD'S CONTRACTING PROCESS. WE WILL BE CAUTIOUS TO AVOID ANY ACTIONS THAT COULD BE SAID TO INTERFERE WITH AN OPEN AND UNIFORM CONTRACTING PROCESS.		

5. CONFLICTS OF INTEREST (PLEASE COMPLETE EACH LINE BELOW):

A.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT CONDUCT BUSINESS WITH OR ON BEHALF OF LAUSD IN A MANNER THAT WOULD BE REASONABLY KNOWN TO CREATE OR LEAD TO A PERCEPTION OF SELF-DEALING.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
B.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT CONDUCT BUSINESS WITH ANY LAUSD OFFICIAL* WHO HAS AN ECONOMIC INTEREST IN OUR ORGANIZATION OR OUR REPRESENTATIVES. WE UNDERSTAND THAT DOING SO COULD VIOLATE GOVERNMENT CODE SECTION 1090 AND RESULT IN A VOID CONTRACT IN WHICH WE MAY OWE RESTITUTION TO LAUSD.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT MAKE OR PARTICIPATE IN THE MAKING OF LAUSD DECISIONS WHEN OUR PERSONAL FINANCIAL INTERESTS CAN BE AFFECTED.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
D.	MY ORGANIZATION WILL NOT ALLOW ANY OF OUR REPRESENTATIVES TO CONDUCT BUSINESS DIRECTLY WITH ANY LAUSD OFFICIAL WHO IS A CLOSE RELATIVE OR COHABITANT, OR WITH WHOM THERE IS A CLOSE ECONOMIC ASSOCIATION. WE UNDERSTAND THAT ANY TIME THERE IS A CLOSE FAMILY OR PERSONAL RELATIONSHIP INVOLVED BETWEEN OUR REPRESENTATIVES AND AN LAUSD OFFICIAL WHO IS INVOLVED IN THIS WORK OR WHO HAS OVERSIGHT, WE MUST WORK WITH LAUSD TO IMPLEMENT THE NECESSARY SAFEGUARDS.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
E.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT CONDUCT WORK ON BEHALF OF ANOTHER CLIENT ON A MATTER THAT WOULD BE REASONABLY SEEN AS IN CONFLICT WITH WORK PERFORMED FOR LAUSD.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
F.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT BEGIN ANY PROSPECTIVE EMPLOYMENT OR CONSULTING DISCUSSIONS WITH ANY CURRENT LAUSD OFFICIAL WITHOUT IMPLEMENTING THE NECESSARY SAFEGUARDS ESTABLISHED BY STATE LAW AND LAUSD SINCE AN OFFER OF COMPENSATION CAN CREATE A CONFLICT.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
G.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT GIVE ANY GIFTS OR PERSONAL BENEFITS A) TO ANY LAUSD PROCUREMENT OFFICIAL, B) TO ANY LAUSD OFFICIAL IN EXCESS OF LAUSD'S ESTABLISHED GIFT LIMIT, OR C) TO ANY LAUSD OFFICIAL WITHOUT THE REQUIRED DISCLOSURE, IF DISCLOSURE IS REQUIRED.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
H.	BY INITIALING HERE, I CERTIFY THAT MY ORGANIZATION AND OUR REPRESENTATIVES WILL BE PROACTIVE IN DISCLOSING IN WRITING ALL POTENTIAL OR ACTUAL CONFLICTS, ON AN ONGOING BASIS, TO THE LAUSD OFFICIALS DESIGNATED IN THE CODE, SO THAT ANY CONFLICTS CAN BE APPROPRIATELY REMEDIED.		

* Note that an LAUSD official is broadly defined to include "any board member, employee, consultant or advisory member of LAUSD" who is involved in making recommendations or decisions for LAUSD.

6. REVOLVING DOOR RESTRICTIONS (PLEASE COMPLETE EACH LINE BELOW):

For each "No" answer below, attach an additional sheet of paper with the heading "Revolving Door Restrictions" and provide an explanation that is brief, concise, and to the point which gives: 1) a description of the situation and the full name of the current or former LAUSD official(s) involved, 2) employment dates with LAUSD, 3) LAUSD position title(s) held with department(s) worked, 4) position title(s) held for your organization, 5) a detailed scope of responsibilities and services being performed for your organization, and 6) time period(s) your organization or representatives has compensated the official.

A.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT COMPENSATE ANY CURRENT LAUSD OFFICIAL TO LOBBY LAUSD, NOR WILL WE COMPENSATE ANY FORMER LAUSD OFFICIAL TO LOBBY LAUSD BEFORE A ONE (1) YEAR PERIOD HAS ELAPSED FROM THAT OFFICIAL'S LAST DATE OF EMPLOYMENT WITH LAUSD. WE UNDERSTAND THAT LOBBYING INCLUDES ANY ACTION TAKEN WITH THE PRINCIPAL PURPOSE OF INFLUENCING A POLICY, PROGRAM, CONTRACT, AWARD OR OTHER LAUSD DECISION-MAKING, INCLUDING MARKETING EFFORTS.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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B.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT COMPENSATE ANY CURRENT OR FORMER LAUSD OFFICIAL TO WORK ON A MATTER THAT THE OFFICIAL HAS BEEN PERSONALLY AND SUBSTANTIALLY INVOLVED WITH IN THE PRECEDING 12 MONTHS.	<input type="checkbox"/>	<input type="checkbox"/>
		Yes	No
C.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT COMPENSATE ANY CURRENT OR FORMER LAUSD OFFICIAL TO PERFORM ANY SERVICES ON A CONTRACT THAT THE OFFICIAL HAS SUBSTANTIALLY PARTICIPATED IN WITHIN THE PRECEDING TWO (2) YEARS.	<input type="checkbox"/>	<input type="checkbox"/>
		Yes	No
D.	MY ORGANIZATION WILL ENSURE THAT ANY REPRESENTATIVE WHO IS CONTRACTED TO ACT IN THE CAPACITY OF AN LAUSD OFFICIAL WILL DISQUALIFY HIMSELF OR HERSELF FROM MAKING ANY GOVERNMENTAL DECISIONS FOR LAUSD RELATING TO A PRIVATE SECTOR INTEREST, INCLUDING MATTERS INVOLVING OUR ORGANIZATION, UNTIL A ONE (1) YEAR PERIOD HAS ELAPSED FROM THE TIME THE INTEREST HAS BEEN DISPOSED OR SEVERED.	<input type="checkbox"/>	<input type="checkbox"/>
		Yes	No
E.	DESCRIBE BRIEFLY THE INTERNAL SAFEGUARDS YOUR ORGANIZATION HAS PUT IN PLACE TO PRESERVE LAUSD'S COOLING PERIOD RESTRICTIONS:		
F.	BY INITIALING HERE, I CERTIFY THAT MY ORGANIZATION AND OUR REPRESENTATIVES WILL UPHOLD ALL THE PROVISIONS OF LAUSD'S REVOLVING DOOR COOLING PERIOD RESTRICTIONS. WE RESPECT THE NEED FOR PUBLIC AGENCIES TO ENSURE THAT NO UNFAIR COMPETITIVE ADVANTAGE IS EXTENDED DUE TO THE HIRING OF CURRENT OR FORMER PUBLIC OFFICIALS.	<input style="width: 100px; height: 30px;" type="text"/>	

7. DISCLOSURE OBLIGATIONS (PLEASE COMPLETE EACH LINE BELOW):

Disclosure of Your Representatives			
Please attach an additional sheet of paper with the heading "Our Representatives" and provide the following: 1) the full name of all subcontractors, employees, agents and anyone else who will act on your organization's behalf for this LAUSD contract, 2) each individual's position title, and 3) each individual's organizational affiliation.			
Disclosure Relating to Current & Former LAUSD Officials			
For each "No" answer below, attach an additional sheet of paper with the heading "Disclosure Obligations – Current & Former LAUSD Officials" and provide the following: 1) the full name of the current or former LAUSD official(s) involved, 2) the official's employment dates with LAUSD, 3) the official's final three-year history of LAUSD position title(s) held with department(s) worked, 4) position title(s) held for your organization, 5) a detailed scope of the responsibilities and services being performed for your organization, and 6) the time period(s) for which your organization or representative has compensated the official. <i>Note: Public agencies are exempt from this requirement and may indicate so on their attachment.</i>			
A.	MY ORGANIZATION AND OUR REPRESENTATIVES ARE <u>NOT</u> COMPENSATING ANY CURRENT LAUSD OFFICIALS. WE KNOW THAT AN LAUSD OFFICIAL IS BROADLY DEFINED TO INCLUDE "ANY BOARD MEMBER, EMPLOYEE, CONSULTANT OR ADVISORY MEMBER OF LAUSD" WHO IS INVOLVED IN MAKING RECOMMENDATIONS OR DECISIONS FOR LAUSD.	<input type="checkbox"/>	<input type="checkbox"/>
		Yes	No
B.	MY ORGANIZATION AND OUR REPRESENTATIVES ARE <u>NOT</u> COMPENSATING ANY INDIVIDUALS WHO HAVE BEEN FORMER LAUSD OFFICIALS WITHIN THE LAST THREE (3) YEARS.	<input type="checkbox"/>	<input type="checkbox"/>
		Yes	No
For each "No" answer below, attach an additional sheet of paper with the heading "Disclosure Obligations – Other Affiliations" and provide the following: 1) the full name of the LAUSD official(s) involved, 2) the official's current LAUSD position title held and department worked, and 3) the details of the official's relationship or affiliation with your organization or representatives.			
C.	MY ORGANIZATION AND OUR REPRESENTATIVES ARE NOT COMPENSATING THE FAMILY MEMBERS OF ANY LAUSD OFFICIALS WHO ARE INVOLVED WITH THIS CONTRACT OR OUR WORK FOR LAUSD.	<input type="checkbox"/>	<input type="checkbox"/>
		Yes	No
D.	MY ORGANIZATION AND OUR REPRESENTATIVES HAVE NO KNOWLEDGE OF ANY FORMER EMPLOYEES OF OURS WHO ARE PRESENTLY EMPLOYED BY LAUSD.	<input type="checkbox"/>	<input type="checkbox"/>
		Yes	No

Lobbying Disclosure			
E.	MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT ENGAGE IN ANY LAUSD LOBBYING ACTIVITIES WITHOUT THE APPROPRIATE REGISTRATION AND DISCLOSURE THROUGH LAUSD'S ETHICS OFFICE WEBSITE (WWW.LAUSD.NET/ETHICS). WE UNDERSTAND THAT UNDER LAUSD'S LOBBYING DISCLOSURE CODE, REGISTRATION IS REQUIRED IF WE ARE PAID BY A CLIENT TO LOBBY LAUSD, OR IF WE WILL SPEND MORE THAN \$10,000 THIS YEAR TO LOBBY LAUSD ON OUR OWN BEHALF. WE KNOW THAT LOBBYING INCLUDES ANY ACTION TAKEN WITH THE PRINCIPAL PURPOSE OF INFLUENCING A POLICY, PROGRAM, CONTRACT, AWARD OR OTHER LAUSD DECISION, INCLUDING MARKETING AND PROMOTIONAL EFFORTS.	<input type="checkbox"/>	<input type="checkbox"/>
		Yes	No

State-Mandated Statement of Economic Interests

(for professional services contracts only)

F. MY ORGANIZATION AND OUR REPRESENTATIVES WILL ABIDE BY THE FINANCIAL DISCLOSURE REQUIREMENTS OF CALIFORNIA'S POLITICAL REFORM ACT WHICH REQUIRES INDIVIDUAL CONTRACTORS AND THEIR REPRESENTATIVES TO DISCLOSE ECONOMIC INTERESTS THAT COULD BE FORESEEABLY AFFECTED BY THEIR EXERCISE OF CONTRACTUAL DUTIES.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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If the answer is "No" below, attach an additional sheet of paper with the heading "State-Mandated Statement of Economic Interests" and provide the following: 1) the full name of each of your representatives who will make governmental decisions or participate in the making of governmental decisions for LAUSD in this contract, 2) a detailed scope of the responsibilities and services each individual will provide to LAUSD, and 3) a valid e-mail address for each representative. Before a contract is executed, these individuals will have to complete a Statement of Economic Interests which can be downloaded from: www.lausd.net/ethics.

G. MY ORGANIZATION AND OUR REPRESENTATIVES WILL <u>NOT</u> BE INVOLVED IN PERFORMING ANY ACTIVITIES OR DECISION-MAKING FOR LAUSD IN THIS CONTRACT SUCH AS: OBLIGATING LAUSD TO A COURSE OF ACTION; APPROVING PLANS, DESIGNS, REPORTS OR STUDIES FOR LAUSD; ADOPTING POLICIES, STANDARDS AND GUIDELINES FOR ANY SUBDIVISION OF LAUSD; AUTHORIZING LAUSD TO ENTER INTO, MODIFY, OR RENEW A CONTRACT; NEGOTIATING ON BEHALF OF LAUSD; ADVISING OR MAKING RECOMMENDATIONS TO LAUSD DECISION-MAKERS; CONDUCTING RESEARCH OF INVESTIGATIONS FOR LAUSD; PREPARING A REPORT OR ANALYSIS THAT REQUIRES AN EXERCISE IN JUDGMENT OR PERFORMING DUTIES SIMILAR TO AN LAUSD STAFF POSITION WHICH IS ALREADY DESIGNATED AS A FILER POSITION IN LAUSD'S CONFLICT OF INTEREST CODE.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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H. BY INITIALING HERE, I CERTIFY THAT MY ORGANIZATION AND OUR REPRESENTATIVES WILL UPHOLD ALL OUR PUBLIC DISCLOSURE OBLIGATIONS WITH LAUSD. WE UNDERSTAND THAT PROVIDING TRANSPARENCY HELPS TO ENSURE GREATER ACCOUNTABILITY AND PUBLIC TRUST.	<div style="border: 1px solid black; width: 80px; height: 40px; margin: 0 auto;"></div>
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To ensure your compliance with LAUSD's disclosure obligations, please verify that all necessary attachments are included.

8. TRUST-BUILDING PRACTICES (PLEASE COMPLETE EACH LINE BELOW):

A. MY ORGANIZATION AND OUR REPRESENTATIVES WILL ADVISE LAUSD OF ANY CHANGE IN THE OWNERSHIP OR OPERATIONAL AND MANAGERIAL CONTROL OF OUR ORGANIZATION WITHIN 10 BUSINESS DAYS OF SUCH CHANGE.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
B. MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT ENGAGE IN POLITICAL SUPPORT AND ACTIVITIES ON LAUSD TIME OR WITH LAUSD RESOURCES UNLESS WE HAVE BEEN RETAINED BY LAUSD TO SPECIFICALLY ENGAGE IN THOSE ACTIVITIES. WE UNDERSTAND THAT LAUSD RESOURCES INCLUDE: TIME, PROPERTY, SUPPLIES, SERVICES, CONSUMABLES, EQUIPMENT, TECHNOLOGY, INTELLECTUAL PROPERTY, AND INFORMATION	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C. MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT SUBMIT ANY FALSE CLAIMS FOR PAYMENT TO LAUSD, AND WE WILL NOT MAKE ANY SUBSTITUTION FOR GOODS, SERVICES OR TALENT THAT DO NOT MEET CONTRACT SPECIFICATIONS WITHOUT PRIOR WRITTEN APPROVAL BY LAUSD.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
D. MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT USE LAUSD ASSETS AND RESOURCES FOR PURPOSES WHICH DO NOT SUPPORT LAUSD'S WORK. WE UNDERSTAND THAT LAUSD ASSETS INCLUDE: TIME, PROPERTY, SUPPLIES, SERVICES, CONSUMABLES, EQUIPMENT, TECHNOLOGY, INTELLECTUAL PROPERTY, AND INFORMATION.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
E. MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT USE LAUSD NAMES AND MARKS, OR SUGGEST ANY LAUSD ENDORSEMENT IN ANY WAY, WITHOUT THE APPROPRIATE WRITTEN LAUSD APPROVAL.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
F. MY ORGANIZATION AND OUR REPRESENTATIVES WILL NOT LET ANY SUSPECTED VIOLATIONS OF LAUSD'S CONTRACTOR CODE OF CONDUCT GO UNADDRESSED. WE UNDERSTAND THAT GOOD FAITH REPORTING OF SUSPECTED VIOLATIONS TO LAUSD'S OFFICE OF THE INSPECTOR GENERAL IS ENCOURAGED.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
G. BY INITIALING HERE, I CERTIFY THAT MY ORGANIZATION AND OUR REPRESENTATIVES WILL ENSURE ETHICAL AND RESPONSIBLE USE OF PUBLIC TAX DOLLARS FOR MAXIMUM STUDENT BENEFIT BY COMMITTING TO TRUST-BUILDING PRACTICES AND BY PROVIDING EXCELLENCE, HIGH QUALITY, INNOVATION AND COST EFFECTIVENESS IN THE PRODUCTS AND SERVICES WE WILL DELIVER TO LAUSD.	<div style="border: 1px solid black; width: 80px; height: 40px; margin: 0 auto;"></div>	

Thank you for your commitment to helping LAUSD ensure ethical conduct, public integrity and responsible use of scarce tax dollars.