

APPENDIX G

SAMPLE CONTRACT



AGREEMENT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

[CONTRACTOR]

FOR

HELICOPTER MAINTENANCE, ENGINEERING AND REPAIR SERVICES

FOR THE

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

AERO BUREAU

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT AGREEMENT

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EXHIBITS

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- EXHIBIT B – STATEMENT OF WORK
- EXHIBIT C – CONTRACTOR'S ADMINISTRATION
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- EXHIBIT E – SAMPLE WORK ORDER FORMAT
- EXHIBIT F1 – CONTRACTOR'S EMPLOYEE ACKNOWLEDGMENT AND CONFIDENTIALITY AGREEMENT
- EXHIBIT F2 - CONTRACTOR NON-EMPLOYEE ACKNOWLEDGMENT AND CONFIDENTIALITY AGREEMENT
- EXHIBIT G – CONTRACTOR'S ASSIGNMENT AND TRANSFER OF COPYRIGHT

RECITALS

THIS AGREEMENT is entered into as of the Effective Date by and between the County of Los Angeles ("County") and [_____] a [_____] organized under the laws of [_____] located at [_____] ("Contractor"), for the Los Angeles County Sheriff's Department (the "Department").

WHEREAS, the Department desires to contract with private businesses for Helicopter Maintenance, Engineering and Repair Services when certain requirements are met; and

WHEREAS, Contractor represents that it possesses the necessary special skills, knowledge and technical competence and sufficient staffing to provide such services; and

WHEREAS, this Agreement (as defined below) is authorized pursuant to California Government Code Section 31000.

NOW THEREFORE, In consideration of the mutual covenants contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Contractor agree as follows:

1.-1 AGREEMENT AND INTERPRETATION

1.1 Agreement. This base document along with Exhibits A through G, any schedules attached hereto or thereto, and any Change Order or amendment from time to time hereto or thereto collectively constitute and throughout and hereinafter are referred to as the "Agreement." This Agreement shall constitute the complete and exclusive statement of understanding between County and Contractor and supersedes any and all prior or contemporaneous agreements, written or oral, and all communications between the parties relating to the subject matter of this Agreement.

1.2 Interpretation. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any Task, Subtask, Deliverable, goods, service, or other Work, or otherwise, such conflict or inconsistency shall be resolved by giving precedence first to this base document, and then to the Exhibits and any attachments thereto, according to the following priority:

1.2.1. Exhibit A – Additional Terms and Conditions

1.2.2. Exhibit B – Statement of Work

1.2.3. Exhibit E – Sample Work Order Format

1.2.4. Exhibit G – Contractor's Assignment and Transfer of Copyright

- 1.2.5. Exhibit D – Contractor’s EEO Certification
- 1.2.6. Exhibit F1– Contractor’s Employee Acknowledgement and Confidentiality Agreement
- Exhibit F2– Contractor’s Non-Employee Acknowledgment and Confidentiality Agreement
- 1.2.7. Exhibit C – Contractor’s Administration
- 1.3 Additional Terms and Conditions. Without limiting the generality of Subparagraph 1.1 (Agreement), attached hereto as Exhibit A (Additional Terms and Conditions), and incorporated by reference herein, are additional terms and conditions to this Agreement. Contractor acknowledges and agrees that it shall be bound by the additional terms and conditions enumerated in such Exhibit as if such terms and conditions were enumerated in the body of this base document.
- 1.4 Construction. The words “herein”, “hereof”, and “hereunder” and words of similar import used in this Agreement refer to this Agreement, including all annexes, attachments, Exhibits, and Schedules as the context may require. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural. Whenever examples are used in this Agreement with the words “including”, “for example”, “e.g.”, “such as”, “etc.”, or any derivation of such words, such examples are intended to be illustrative and not limiting. Captions and Paragraph headings used in the Agreement are for convenience only and are not a part of the Agreement and shall not be used in construing the Agreement.

2.0 DEFINITIONS

The following terms and phrases in quotation marks and with initial letters capitalized shall have the following specific meaning when used in this Agreement.

- 2.1 “Agreement” has the meaning set forth in Paragraph 1.1 (Agreement).
- 2.2 “Board” means the Los Angeles County Board of Supervisors.
- 2.3 “Business Day” means Monday through Friday, excluding County observed holidays.
- 2.4 “Change Order” has the meaning set forth in Section 6.0 (Change Orders and Amendments).
- 2.5 “Contractor Key Personnel” has the meaning set forth in Paragraph 4.5.

- 2.6 "Contractor Project Director" has the meaning set forth in Paragraph 4.1 (Contractor Project Director).
- 2.7 "Contractor Project Manager" has the meaning set forth in Paragraph 4.2 (Contractor Project Manager).
- 2.8 "County" has the meaning set forth in the Recitals.
- 2.9 "County Counsel" means County's Office of the County Counsel.
- 2.10 "County Indemnitees" has the meaning set forth in Paragraph 13.1 (Indemnification) of Exhibit A (Additional Terms and Conditions).
- 2.11 "County Project Director" has the meaning set forth in Paragraph 3.1 (County Project Director).
- 2.12 "County Project Manager" has the meaning set forth in Paragraph 3.2 (County Project Manager).
- 2.13 "Deliverable" means a service, product, or good to be provided by Contractor to County under this Agreement and identified as a numbered Deliverable in the Statement of Work or any approved Change Order or amendment.
- 2.14 "Department" has the meaning set forth in the Recitals.
- 2.15 "Dispute Resolution Procedure" has the meaning set forth in Section 2.0 (Dispute Resolution Procedure) of Exhibit A (Additional Terms and Conditions).
- 2.16 "Effective Date" means the first date on which this Agreement has been executed by all parties and approved by the Board.
- 2.17 "Maximum Labor Rate Per Hour" or "MLR" means, for Contractor's personnel, the fully burdened maximum hourly rate set forth in Paragraph 8.2 (Labor), which includes an allocated average of direct and indirect costs, overhead, and administrative expenses attributable to each personnel hour worked.
- 2.18 "Infringement Claims" has the meaning set forth in Section 14.0 (Intellectual Property Indemnification) of Exhibit A (Additional Terms and Conditions).
- 2.19 "Initial Term" has the meaning set forth in Section 7.0 (Term).
- 2.20 "Jury Service Program" has the meaning set forth in Section 33.0 (Compliance with Jury Service Program) of Exhibit A (Additional Terms and Conditions).
- 2.21 "Option Term" has the meaning set forth in Section 7.0 (Term).

- 2.22 "Preapproved Subcontractor" has the meaning set forth in Section 1.0 (Subcontracting) of Exhibit A (Additional Terms and Conditions).
- 2.23 "Sheriff" means the elected official who is the Sheriff of the County of Los Angeles.
- 2.24 "Specifications" means the direction, provisions, and requirements contained in each Work Order and as supplemented by such special provisions as may be necessary pertaining to method, manner, and place of performing the work under the Agreement.
- 2.25 "Statement of Work" or "SOW" means the Statement of Work, attached as Exhibit B (Statement of Work) to this Agreement, as the same may be amended by any approved Change Order or amendment.
- 2.26 "Task" means one or more major areas of work to be performed under this Agreement and identified as a numbered Task in the Statement of Work or any approved Change Order or amendment.
- 2.27 "Tax" and "Taxes" means governmental fees (including license, filing and registration fees) and all taxes (including franchise, excise, stamp, value added, income, gross receipts, gross revenue, import, export, sales, use, transfer, and property taxes), withholdings, assessments, levies, imposts, duties, charges, or interest thereon imposed.
- 2.28 "Term" has the meaning set forth in Section 7.0 (Term).
- 2.29 "Work" means any and all Tasks, Deliverables, goods, and other services performed by or on behalf of Contractor including the work required pursuant to this Agreement, the Statement of Work, and all the Exhibits, Change Orders, and amendments hereto.
- 2.30 "Work Order" means a subordinate agreement, attached as Exhibit E (Sample Work Order Format) to this Agreement, executed wholly within and subject to the provisions of the Agreement, for the performance of Tasks and/or provision of Deliverables as described in attached Specifications. No work shall be performed by CONTRACTOR except in accordance with validly executed Work Orders.

3.0 ADMINISTRATION OF AGREEMENT – COUNTY

3.1 County Project Director.

3.1.1 "County Project Director" for this Agreement shall be the following person:

James A. Di Giovanna, Captain
Los Angeles County Sheriff, Aero Bureau
3235 North Lakewood Boulevard
Long Beach, California 90808
Phone: (562) 421-1010
Fax: (323) 415-4524
E-mail: JADiGiov@lasd.org

3.1.2 County will notify Contractor of any change in the name or address of County Project Director.

3.1.3 Except as set forth in Section 6.0 (Change Orders and Amendments) of this Agreement, County Project Director is not authorized to make any changes in any of the terms and conditions of this Agreement and is not authorized to further obligate County in any respect whatsoever.

3.1.4 County Project Director shall have the right at all times to inspect any and all Work provided by or on behalf of Contractor.

3.2 County Project Manager.

3.2.1 "County Project Manager" for this Agreement shall be the following person:

Dennis A. Thompson, Chief of Helicopter Maintenance
Los Angeles County Sheriff, Aero Bureau
3235 North Lakewood Boulevard
Long Beach, California 90808
Phone: (562) 421-2701
Fax: (323) 415-3249
E-mail: d2thomps@lasd.org

Unless otherwise specifically noted, whenever this Agreement calls for a notice, report, or other delivery to be made by Contractor (or any representative thereof) to County Project Manager, such notice, report, or other delivery shall be made to County Project Manager in accordance with the notice information set forth above or in accordance

with such other notice information as County may notify Contractor from time to time pursuant to Subparagraph 3.2.2.

- 3.2.2 County shall notify Contractor of any change in the name or address of the County Project Manager.
 - 3.2.3 The County Project Manager shall be a resource for addressing the technical standards and requirements of this Agreement, shall interface regularly with Contractor and further shall have the duties from time to time give to such person by County.
 - 3.2.4 County Project Manager is not authorized to make any changes in any of the terms and conditions of this Agreement nor obligate County in any respect whatsoever.
 - 3.2.5 County Project Manager shall advise County Project Director as to Contractor's performance in areas relating to technical requirements and standards, County policy, information requirements, and procedural requirements.
- 3.3 Consolidation of Duties. County reserves the right to consolidate the duties of County Project Director, which duties are enumerated in Paragraph 3.1 (County Project Director), and the duties of County Project Manager, which duties are enumerated in Paragraph 3.2 (County Project Manager), into one County position, and to assign all such duties to one individual who will act as County's liaison in all matters relating to this Agreement. County will notify Contractor no later than five (5) days prior to exercising its rights pursuant to this Paragraph 3.3.
- 3.4 County Personnel. All County personnel assigned to this Agreement shall be under the exclusive supervision of County. Contractor understands and agrees that all such County personnel are assigned only for the convenience of County.

4.0 ADMINISTRATION OF AGREEMENT – CONTRACTOR

4.1 Contractor Project Director

- 4.1.1 "Contractor's Project Director" is listed in Exhibit C. The Contractor shall notify the County in writing of any change in the name or address of the Contractor's Project Director.
- 4.1.2 Contractor Project Director shall be responsible for Contractor's performance of all of the Work and ensuring Contractor's compliance with this Agreement.

4.1.3 From the Effective Date through the expiration of the Term, Contractor Project Director shall be available to meet and confer with County Project Director at least monthly in person or by phone, to review project progress and discuss project coordination.

4.2 Contractor Project Manager

4.2.1 The "Contractor's Project Manager" is listed in Exhibit C. The Contractor shall notify the County in writing of any change in the name or address of the Contractor's Project Manager.

4.2.2 Contractor Project Manager shall be responsible for Contractor's day-to-day activities as related to this Agreement and shall coordinate with County's Project Manager on a regular basis with respect to all active Work Orders.

4.2.3 From the Effective Date through the expiration of the Term, Contractor Project Manager shall be available to meet and confer as necessary, in person or by phone, but no less frequently than monthly with County.

4.3 Contractor's Authorized Officials

4.3.1 Contractor's Authorized Official(s) are designated in Exhibit C. Contractor shall promptly notify County in writing of any change in the name(s) or address(es) of Contractor's Authorized Official(s).

4.3.2 Contractor represents and warrants that all requirements of Contractor have been fulfilled to provide actual authority to such officials to execute documents under this Agreement on behalf of Contractor.

5.0 WORK; APPROVAL AND ACCEPTANCE

5.1 General

Contractor acknowledges that, subject to this Paragraph, all Work performed under this Agreement, including pursuant to an executed Change Order or amendment, is payable on a per Work Order basis in accordance with the terms and conditions of this Agreement, including this Section 5.0 (Work; Approval and Acceptance), Section 8.0 (Prices and Fees), and Section 10.0 (Invoices and Payments).

5.2 Pursuant to the provisions of this Agreement, the CONTRACTOR shall fully perform, complete and deliver on time, all deliverables, services and other work as set forth in each Work Order.

- 5.3 Work Orders shall conform to Appendix E (Sample Work Order Format). Each Work Order shall include Specifications that describe in detail the particular project and the work required for the performance thereof.
- 5.4 If CONTRACTOR provides any task, deliverable, service, or other work to COUNTY that utilizes other than approved CONTRACTOR personnel, and/or that goes beyond the scope of the Work Order expiration date, and/or that exceeds the Total Maximum Amount as specified in the Work Order bid as originally written, or as modified in accordance with the Section 6.0, Change Notices and Amendments, these shall be gratuitous efforts on the part of CONTRACTOR for which CONTRACTOR shall have no claim whatsoever against COUNTY.
- 5.5 COUNTY procedures for issuing and executing Work Orders are as set forth in this Paragraph. Upon determination by the COUNTY to issue a Work Order solicitation, the COUNTY may issue a Work Order solicitation containing Specifications to all Agreement CONTRACTORs qualified to perform the work in question, however, the COUNTY's Project Manager has the sole discretion to issue Work Order(s) to any of the Qualified CONTRACTORs pursuant to Paragraph 5.6. Each interested Qualified CONTRACTOR so contacted shall submit a bid to the COUNTY address and within the timeframe specified in the solicitation. Failure of CONTRACTOR to provide a bid within the specified timeframe may disqualify CONTRACTOR for that particular Work Order solicitation.
- 5.6 Upon completion of evaluations, COUNTY shall execute the Work Order by and through the Sheriff's Department staff identified in this Agreement with the lowest cost Qualified CONTRACTOR unless the Work Order solicitation specifies bid evaluation criteria other than lowest cost. The Sheriff's Department reserves the right to select CONTRACTOR(s) per job based on "best price/best source", time-to-completion of proposed work, and will consider timeliness of completed work based on previous jobs, and frequency of past job(s) in considering each bid. It is understood by CONTRACTOR that COUNTY's competitive bidding procedure may have the effect that no Work Orders are issued to some Agreement Qualified CONTRACTORs. Work Orders are usually issued for periods not extending past the end of COUNTY's current fiscal year (June 30th).
- 5.7 COUNTY estimates that the selection of any CONTRACTOR shall occur within five (5) business days of completion of the evaluations of the particular Work Order bids.

6.0 CHANGE NOTICES AND AMENDMENTS

No representative of either County or Contractor, including those named in this Agreement, is authorized to make any changes in any of the terms, obligations, or

conditions of this Agreement, except through the procedures set forth in this Section 6.0 (Change Orders and Amendments).

6.1 General

County reserves the right to change any portion of the Work required under this Agreement, or amend such other terms and conditions, as may become necessary. Any such revision shall be accomplished in the following manner:

- 6.1.1 For any change which affects the description of Work, time period, or amount of payment under a Work Order, the County Project Director and Contractor Authorized Official shall execute a Change Notice to the Work Order.
- 6.1.2 For any change which does not materially affect the scope of Work, Term, Prices and Fees, or any other term or condition included under this Agreement, a Change Notice shall be executed by the County Project Director, with the concurrence of County Counsel, and Contractor Project Director. To the extent that extensions of time for Contractor performance do not impact either the scope of Work or cost of this Agreement, County Project Director, in County Project Director's discretion, may grant Contractor extensions of time in writing for the Work listed in the Statement of Work or otherwise in this Agreement provided that such extensions shall not extend the Term of this Agreement.
- 6.1.3 For any change which increases the Prices and Fees pursuant to Paragraphs 8.3 or 9.2, or changes the terms and conditions pursuant to requirements of the Board of Supervisors, County Counsel, or the County Chief Administrative Officer, the Sheriff and the Contractor Project Director shall execute an Amendment to the Agreement.
- 6.1.4 For any change that materially affects the scope of Work, period of performance, amount of payments, or any other term or condition in the body of this Agreement or Exhibit A (Additional Terms and Conditions), then a negotiated Amendment to this Agreement shall be executed by the Board and Contractor.

6.2 Audit of Change Order Work.

County is entitled to audit, in accordance with Section 42.0 (Records and Audits) of Exhibit A (Additional Terms and Conditions), Contractor's compliance with Section 6.0 (Change Orders and Amendments) in respect of Work performed pursuant to a Change Order.

7.0 TERM

- 7.1 This Master Agreement is effective upon the date of execution by the Sheriff. This Master Agreement shall expire three (3) years after the date the Master Agreement was authorized by the Board of Supervisors unless sooner extended or terminated, in whole or in part, as provided herein.
- 7.2 The County shall have the option to extend the Master Agreement term for up to two (2) additional one-year periods and alternatively or additionally for a maximum period of six (6) months, in any increment, for a maximum total Master Agreement term of five (5) years and six (6) months from the date the Master Agreement was authorized by the Board of Supervisors. Each such option shall be exercised individually by the Sheriff by giving notice to the Contractor.
- 7.3 Contractor shall notify Los Angeles County Sheriff's Department when this Master Agreement is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, Contractor shall send written notification to the County's Project Director at the address herein provided in Section 3.0 (Administration of Master Agreement – County).
- 7.4 In the event that a Work Order is issued prior to the expiration of the Agreement, and which requires Work to be performed that will exceed the Term, all terms and conditions of this Agreement shall apply for purposes of that Work Order only until the Work is completed and paid for.

8.0 PRICES AND FEES

8.1 General

The prices and fees for this Agreement shall be the amount payable by County to Contractor for performing all tasks, deliverables, goods, services and any other work required under this Agreement. The Contractor shall not be entitled to payment or reimbursement for any deliverables, goods, services and any other work, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified in this Agreement.

8.2 Labor

Except as stated in Paragraph 9.2, at no time during the term of this Agreement, shall the Maximum Labor Rate per Hour (MLR) for Work performed as a result of this Agreement exceed:

[INSERT \$\$\$ AMOUNT per HOUR]

8.3 Parts, Components, Raw Materials

Pricing for all parts, components, and/or raw materials (materials) used to perform Work as a result of this Agreement shall not exceed the published industry-standard resale pricing for said materials by any Original Equipment Manufacturer (OEM), authorized OEM reseller, the United States Navy, or any other source providing such materials to Contractor.

It shall be the responsibility of Contractor to provide to the County's Project Manager annually, or upon request, two (2) copies of current year proprietary Price Books (catalogues), or a current year bibliographic listing of price books used by Contractor to set pricing for materials.

The bibliography is a listing of all manufacturer and/or proprietary Price Books [Original Equipment Manufacturers (OEM), U.S. Navy, parts distributors and/or vendors authorized by the OEM] used by the Vendor to set resale pricing for parts, components and/or raw materials to be used throughout the term of the Agreement (*refer to Exhibit B, Statement of Work, Part III, A*).

The bibliographic listing must alphabetically list the manufacturer's and/or supplier's name, address and phone number(s), internet website address, Price Book date or year of publication, and number of pages contained in the Price Book.

All Price Books and/or bibliographic listings shall be provided at no cost to County throughout the Term of this Agreement.

9.0 COUNTY'S OBLIGATION FOR FUTURE FISCAL YEARS

- 9.1 Notwithstanding any other provision of this Agreement, either expressly or by implication, County shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during any of County's future fiscal years unless and until the Board appropriates funds for this Agreement in County's budget for each such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated and such termination shall be deemed a termination for convenience pursuant to Section 6.0 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions). County shall endeavor to notify Contractor in writing of any such non-appropriation of funds at the earliest possible date.

9.2 Cost of Living Adjustments (COLAs)

The Agreement MLR published in Paragraph 8.2 (Labor) may be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County Area for the most recently published percentage change for the 12-month period preceding the agreement anniversary date, which shall be the effective date for any cost of living adjustment. However, any increase shall not exceed the general salary movement granted to County employees as determined by the Chief Administrative Office as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the Board from approving any increase in County employees' salaries, no cost of living adjustments will be granted. COLAs shall implemented by Amendment to the Agreement executed by the Sheriff pursuant to Section 6.0, (Change Orders and Amendments).

10.0 INVOICES AND PAYMENTS

For providing the deliverables, services, and other work authorized pursuant to this Agreement, Contractor shall separately invoice County for each Work Order by deliverable.

Payment for all work shall be on a fixed-price/not-to-exceed-cost per deliverable basis, subject to the total maximum amount specified in each Work Order, less any amounts assessed in accordance with Section 11.0 (Liquidated Damages).

County shall not pay Contractor for any costs which exceed the total maximum amount specified in each Work Order or which exceed the published industry-standard resale pricing published by manufacturers of components, parts, and/or raw materials used by Contractor.

County shall not pay Contractor for any costs which exceed the published labor rate in Paragraph 8.2 (Labor) except as adjusted pursuant to Paragraph 9.2 (COLAs).

10.1 Approval of Invoices

All invoices submitted by Contractor for payment must have the written approval of County Project Director, as evidenced by County Project Director's countersignature, prior to any payment thereof. In no event shall County be liable or responsible for any payment prior to such written approval. Invoices shall be submitted to the County Project Director identified in Paragraph 3.1, and a simultaneous duplicate copy to:

Los Angeles County Sheriff's Department
Accounts Payable
4700 Ramona Boulevard, Room 316
Monterey Park, California 91754

10.2 Detail. Each invoice submitted by Contractor shall include:

10.2.1 A complete description of the tasks, deliverables, goods, services, or other Work as described in Exhibit B (Statement of Work) and detailed in the original or properly amended Work Order for which payment is claimed and the amount of payment thereof.

10.2.2 Period of Performance

The period of performance specified in Contractor's invoice(s) must coincide with the period of performance specified in the applicable Work Order.

10.2.3 Additional Information. Each Invoice shall also include the following:

- County's Work Order number and Contractor's Agreement number;
- Period of performance of work being invoiced;
- Name(s) of persons who performed the Work;
- The number of labor hours used to complete the job;
- An itemized list of all parts, components, and/or raw materials used to complete the job together with manufacturer's part numbers;
- The itemized pricing for each part, component, and/or volume of raw materials used to complete the job;
- The number labor hours used to complete the Work;
- The Labor Rate Per Hour applicable to the Work Order;
- The total amount of the invoice.

10.3 No Out-of-Pocket Expenses

Contractor acknowledges that out-of-pocket expenses, including travel, meal, and lodging expenses, are not reimbursable by County. Accordingly, Contractor's invoices shall not include out-of-pocket expenses.

10.4 Contractor Responsibility

Contractor is responsible for the accuracy of invoices submitted to County. Further, it is the responsibility of Contractor to reconcile or otherwise correct inaccuracies or inconsistencies in the invoices submitted by Contractor.

10.5 County's Right to Withhold

In addition to any rights of County provided in this Agreement, or at law or in equity, County may, upon notice to Contractor, withhold payment for any Work while Contractor is in default hereunder, or at any time that Contractor has not provided County approved Work.

11.0 LIQUIDATED DAMAGES

- 11.1 If, in the judgment of the County Project Director, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the County Project Director, at his option, in addition to, or in lieu of, other remedies provided herein, may, for cause, withhold the entire monthly payment or deduct pro rata from the Contractor's invoice for Work not performed. Information regarding the Work not performed and the amount to be withheld or deducted from payments to the Contractor from the County will be forwarded to the Contractor by the County Project Director in a written notice describing the reasons for said action.
- 11.2 If the County Project Director determines that there are deficiencies in the performance of this Agreement that are over a certain time span, the County Project Director will provide a written notice to the Contractor to correct the deficiency within specified time frames. Should the Contractor fail to correct deficiencies within said time frame, the County Project Director may:
- 11.2.1 Deduct from the Contractor's payment, pro rata, those applicable portions of the monthly contract sum; or
 - 11.2.2 Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is Two Hundred Dollars (USD) (\$200) per day per infraction, and that the Contractor shall be liable to the County for liquidated damages in the said amount. Said amount shall be deducted from the County's payment to the Contractor; and/or
 - 11.2.3 Upon giving five (5) days notice to the Contractor for failure to correct the deficiencies, the County may correct any and all deficiencies, and the total costs incurred by the County for completion of the Work by an alternate source, whether it be County forces or separate private contractor, will be deducted and forfeited from the payment to the Contractor from the County, as determined by County.

- 11.3 The action noted in Paragraph 11.2 shall not be construed as a penalty, but as an adjustment of payment to Contractor to recover the County cost due to the failure of Contractor to complete or comply with the provisions of this Agreement.
- 11.4 This Paragraph shall not, in any manner, restrict or limit the County's right to damages for any breach of this Agreement provided by law or as specified in the PRS or Paragraph 11.2, and shall not, in any manner, restrict or limit the County's right to terminate the Agreement as agreed to herein.

12.0 NOTICES

All notices or demands required or permitted to be given or made under this Agreement, unless otherwise specified, shall be in writing and shall be addressed to the parties at the following addresses and delivered: (a) by hand with signed receipt; (b) by first-class registered or certified mail, postage prepaid; (c) by facsimile or electronic mail transmission followed within twenty-four (24) hours by a confirmation copy mailed by first-class registered or certified mail, postage prepaid; or (d) by overnight commercial carrier, with signed receipt. Notice is deemed given at the time of signed receipt in the case of hand delivery, three (3) days after deposit in the United States mail as set forth above, on the date of facsimile or electronic mail transmission if followed by timely confirmation mailing, or on the date of signature receipt by the receiving part of any overnight commercial carrier delivery. Addresses may be changed by either party giving ten (10) days prior notice in accordance with the procedures set forth above, to the other party.

To County: (1) Los Angeles County Sheriff
Contracts Unit
4700 Ramona Boulevard, Suite 214
Monterey Park, California 91754
Attention: Mr. Angelo Faiella
Phone: (323) 526-5183
Fax: (323) 415-1246
E-mail: Afaiell@lasd.org

with a copy to:

(2) Los Angeles County Sheriff's Department
Legal Advisory Unit
4700 Ramona Boulevard, Suite 225
Monterey Park, CA 91754-2169
Attention: Contract Unit Counsel
Facsimile: (323) 267-6687

To Contractor: [CONTRACTOR NAME]
Attention: []
Facsimile: []

The County Project Director shall have the authority to issue all notices or demands, which are required or permitted by County under this Agreement.

13.0 ARM'S LENGTH NEGOTIATIONS

This Agreement is the product of an arm's length negotiation between Contractor and County. Each party has had at all times the opportunity to receive advice from independent counsel of its own choosing. Accordingly, this Agreement is to be interpreted fairly as between the parties, and not strictly construed as against either party as drafter or creator.

14.0 INTELLECTUAL PROPERTY

14.1 Ownership Of New Supplemental Type Certificates, Field Approvals, Other Proprietary Rights

14.1.1 County shall be the sole owner of all materials, plans, reports, deliverables, engineering data and information (hereafter in this paragraph collectively "Materials") which are developed for the sole use by the County of Los Angeles under or as a result of this Agreement, and all copyright, patent rights, trade secret rights, new Supplemental Type Certificates and/or Field Approvals, and other proprietary rights therein, provided that notwithstanding such ownership, Contractor may retain possession of all working papers prepared by Contractor. Upon request of County, Contractor, shall execute all documents requested by County and shall perform all other acts requested by County to assign and transfer to, and vest in, the County all Contractor's right, title and interest in and to the Materials, including, but not limited to, all copyrights, patents and trade secret rights.

14.1.2 During, and for a minimum of five (5) years thereafter subsequent to the term of the Agreement, Contractor shall maintain and provide security for all Contractor's working papers prepared under this Agreement. During and for a minimum of five (5) years thereafter subsequent to the term of the Agreement, County shall have the right to inspect, any and all such working papers, make copies thereof, and use the working papers and all information contained therein.

14.1.3 Contractor shall protect the security of and keep confidential all Materials obtained or produced under this Agreement. Further, Contractor shall use whatever security measures are reasonably necessary to protect all

such Materials from loss or damage by any cause, including, but not limited to, fire and theft.

- 14.1.4 Contractor shall not disclose to any person or entity any information identifying, characterizing or relating to any risk, threat, vulnerability, weakness, or problem regarding data security in County's computer systems, or to any safeguard, countermeasure, or contingency plan, policy or procedure for data security contemplated or implemented by County, without County's prior written consent.
- 14.1.5 County shall have the right to register applicable copyrights and patents in the name of the County of Los Angeles. Further, County shall have the right to assign, license, or otherwise transfer any and all applicable County's right, title, and interest, including, but not limited to, copyrights and patents, in and to the Materials.
- 14.1.6 Contractor hereby grants to County a perpetual, nonexclusive, non-terminable, no cost license to use, modify and reproduce all Materials described in this Paragraph 14.1. County shall also have the right to disclose such Materials under an appropriate non-disclosure agreement.
- 14.1.7 Any and all Materials, which are developed or were originally acquired by Contractor outside the scope of this Agreement, which Contractor desires to use hereunder, and which Contractor considers to be proprietary or confidential, must be specifically identified by Contractor to County's Project Director as proprietary or confidential, and shall be plainly and prominently marked by Contractor as "Propriety" or "Confidential" on each appropriate page of any document containing such Material(s).
- 14.1.8 County will use reasonable means to ensure that Contractor's proprietary and/or confidential Materials are safeguarded and held in confidence. County agrees not to reproduce, distribute or disclose to non- County entities any such proprietary and/or confidential Materials without the prior written consent of Contractor or as required by law.
- 14.1.9 Notwithstanding any other provision of this Agreement, County will not be obligated to Contractor in any way under Sub-paragraph 14.1.7 for any of Contractor's proprietary and/or confidential Materials which are not plainly and prominently marked, for any Materials covered under Sub-Paragraph 14.1.1, or for any disclosure of any Materials which County is required to make under any state or federal law or order of court.

