



CONTRACT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

SBC GLOBAL SERVICES, INC. DBA

AT&T GLOBAL SERVICES

FOR

TELECOMMUNICATIONS SERVICES

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(not attached)**

**CONTRACT BETWEEN
COUNTY OF LOS ANGELES
AND
SBC GLOBAL SERVICES, INC. DBA AT&T GLOBAL SERVICES
FOR
TELECOMMUNICATIONS SERVICES**

This Contract ("Contract") is made and entered into this ___ day of _____, 2008 by and between the County of Los Angeles ("County") and SBC Global Services, Inc. dba AT&T Global Services for itself and on behalf of its Affiliates identified in this Contract, ("Contractor") located at 2600 Camino Ramon, San Ramon, California.

RECITALS

WHEREAS, County may contract with private businesses for telecommunications services (the "Services") when certain requirements are met;

WHEREAS, the Contractor is a private firm specializing in providing the Services and will arrange to have an Affiliate identified in this Contract provide the Services in accordance with this Contract; and

WHEREAS, County desires to employ Contractor to provide the Services to various County departments.

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

1.0 APPLICABLE DOCUMENTS

Contract. This base document along with Exhibits A through M and any schedules attached hereto or thereto collectively constitute and throughout and hereinafter are referred to as the "Contract." Contractor maintains (i) Tariffs containing the standard descriptions, pricing, and other terms and conditions for a Service that AT&T files with regulatory commissions, (ii) Guidebooks or Catalogs containing the standard descriptions, pricing, and other terms and conditions for a Service that were, but no longer are, filed with regulatory commissions, (iii) AT&T's Acceptable Use Policy ("AUP") that applies to Services provided over or accessing the Internet, and (iv) Service Guides containing description, pricing, and other terms and conditions for the Service not covered by a Tariff, Guidebook or Catalog. The Tariffs, Guidebooks and Catalogs, AUP, and Service Guides, as modified from time to

time, are incorporated into this Contract by reference. The Tariffs, Guidebooks and Catalogs may be found at att.sbc.com/search/tariffs.jsp, serviceguide.att.com/ABS/ext/index.cfm, or other locations Contractor may designate. The AUP may be found at att.com/aup, or other locations AT&T may designate. The Service Guides may be found at new.serviceguide.att.com, or other locations AT&T may designate. The Service Guides may be found at new.serviceguide.att.com, or other locations AT&T may designate. This Contract 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 Contract. This Contract and Exhibits attached hereto, or hereafter executed, shall be filed with, to the extent required by law, and approved by the California Public Utilities Commission ("CPUC") and/or the Federal Communications Commission ("FCC"). This Contract shall at all times be subject to such modifications as the CPUC and/or the FCC may, from time to time, require under their respective jurisdictions.

- 1.1 **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, 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 according to the following priority, and then to the applicable Tariff, Guidebook and Catalog, AUP or Service Guides:

- 1.2.1 EXHIBIT A-1 - Statement of Work for Local Services
- 1.2.2 EXHIBIT A-2 - Statement of Work for Long Distance Services
- 1.2.3 EXHIBIT A-3 - Statement of Work for Managed IP Services
- 1.2.4 EXHIBIT B-1 - Pricing Schedule for Local Services
- 1.2.5 EXHIBIT B-2 - Pricing Schedule for Long Distance Services
- 1.2.6 EXHIBIT B-3 - Pricing Schedule for Managed IP Services
- 1.2.7 EXHIBIT C - Intentionally Omitted
- 1.2.8 EXHIBIT D - Contractor's EEO Certification
- 1.2.9 EXHIBIT E - County's Administration
- 1.2.10 EXHIBIT F - Contractor's Administration
- 1.2.11 EXHIBIT G - Contractor Employee Acknowledgement, Confidentiality Agreement and Assignment of Copyright
- 1.2.12 EXHIBIT H - Jury Service Ordinance
- 1.2.13 EXHIBIT I - Safely Surrendered Baby Law
- 1.2.14 EXHIBIT J - Contractor's Obligations as a "Contractor" Under the Health Insurance Portability & Accountability Act of 1996 (HIPAA)
- 1.2.15 EXHIBIT K - Contractor's List of Affiliates
- 1.2.16 EXHIBIT L - Sample Change Notice
- 1.2.17 EXHIBIT M - Contractor's Proposal for Telecommunications Services (not attached)

- 1.2 **Construction.** The words “herein”, “hereof”, and “hereunder” and words of similar import used in this Contract refer to this Contract, 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 Contract 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. References in this Contract to federal, State, County and/or other governmental laws, rules, regulations, ordinances, guidelines, directives, policies and/or procedures shall mean such laws, rules, regulations, ordinances, guidelines, directives policies and/or procedures as amended from time to time.

Any use of the masculine gender shall be construed to include the feminine, and vice versa.

Unless expressly stated otherwise, all approvals, consents, or determinations by or on behalf of County under this Contract, will be in writing, and may be given or withheld in the sole discretion or judgment of the person or entity authorized to provide or make such approval consent, or determination.

2.0 DEFINITIONS

The following words and phrases in bold-faced type and with the initial letters capitalized shall have the following specific meaning when used in this Contract unless otherwise apparent from the context in which they are used:

- 2.1 **Amendment:** The term “Amendment” shall have the meaning set forth in Paragraph 8.1 (Amendments).
- 2.2 **Board:** The term “Board” shall mean County’s Board of Supervisors, acting as governing body, with the legal authority to enter into contracts.
- 2.3 **Contract Rates:** The term “Contract Rates” shall mean the contract rates set forth in Exhibit B (Pricing Schedule).
- 2.4 **Contract:** The term “Contract” shall have the meaning set forth in Paragraph 1.1 (Contract).
- 2.5 **Contractor:** The term “Contractor” shall have the meaning set forth in the preamble to this Contract.
- 2.6 **County’s Program Director:** The term “County’s Program Director” shall have the meaning set forth in Paragraph 6.1 (County’s Program Director).
- 2.7 **County’s Program Manager:** The term “County’s Program Manager” shall have the meaning set forth in Paragraph 6.2 (County’s Program Manager).

- 2.8 **County's Project Manager:** The term "County's Project Manager" shall have the meaning set forth in Paragraph 6.3 (County's Project Manager).
- 2.9 **Business Day(s):** The term "Business Day(s)" shall mean business day(s) which is Monday through Friday, exclusive of holidays observed by County. Any use of the term "day(s)" or "Day(s)" by itself shall mean calendar day(s).
- 2.10 **Director:** The term "Director" shall mean the director of County's Internal Services Department.
- 2.11 **Effective Date:** The term "Effective Date" shall mean the effective date on which this Contract takes effect.
- 2.12 **Fiscal Year:** The term "Fiscal Year" shall mean County's fiscal year which is the twelve (12) month period beginning July 1st and ending the following June 30th.
- 2.13 **ISD:** The term "ISD" shall mean County's Internal Services Department which is responsible for administration of this Contract.
- 2.14 **Affiliate:** The term "Affiliate" means any entity identified in Exhibit K (Contractor's List of Affiliates) that controls, is controlled by, or is under common control with Contractor. Contractor reserves the right to add or delete service-providing Affiliates during the term of the Contract. Contractor acknowledges that such addition or deletion of service-providing Affiliates does not change Contractor's duties and obligations under the terms of this Contract. Contractor shall give County prior written notice of any such addition or deletion.
- 2.15 **Special Construction:** The term "Special Construction" means construction or rearrangement of facilities for regulated services where facilities are not reusable or one or more of the following criteria applies; i) construction is expedited based upon the request of County; ii) County requests a route or type of facility that is other than normal; iii) County requests more facilities than required per Contractor policies and procedures; iv) County requests a service where the revenue to be derived is not sufficient to warrant Contractor assuming the unusual cost of providing the necessary facilities (only applies to services purchased from tariffs other than the FCC tariffs).

3.0 WORK

- 3.1 Pursuant to the provisions of this Contract, the Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, Services and other work as set forth herein or arrange to have an Affiliate provide such Services and other work in accordance with this Contract. Each such Affiliate performing work under this Contract shall be financially responsible, consistent with the terms and conditions of this Agreement, with Contractor for the specific work to be performed by the Affiliate. Where required, an Affiliate authorized by the appropriate regulatory authority will provide the Services and other work.

- 3.2 If the Contractor provides any tasks, deliverables, goods, Services, or other work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of the Contractor, and the Contractor shall have no claim whatsoever against the County.

4.0 TERM OF CONTRACT

- 4.1 The initial term of this Contract shall be five (5) years commencing on May 2, 2008 if this Contract is executed by the Board on or before May 2, 2008, or upon execution by the Board, if execution occurs subsequent to May 2, 2008, unless sooner terminated or extended, in whole or in part, as provided in this Contract.
- 4.2 County shall have the sole and unilateral option to extend the term of this Contract for one additional five (5) year period or one additional two (2) year period commencing at the end of the initial term. If County exercises the option to extend the initial term of this Contract for one additional five (5) year period, then County shall have the sole and unilateral option to extend the term of this Contract for one additional two (2) year period commencing at the end of the extended term, for a maximum possible total Contract term of twelve (12) years. If County exercises the option to extend the initial term of this Contract for one additional two (2) year period, then County shall not have an additional option to extend the term. Each such option to extend the term of the Contract shall be exercised at the sole discretion of the Director, or his/her designee, as authorized by the Board. County will notify Contractor in writing sixty (60) days prior to expiration if it elects to exercise its right to extend this Contract.
- 4.3 Contractor shall notify ISD when this Contract 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 ISD at the address set forth in Exhibit E (County's Administration).

5.0 CONTRACT PRICING AND INVOICING

- 5.1 The Contract Rates shall not be charged before acceptance of the Services and shall not exceed the rates listed in Exhibits B-1, B-2 and B-3 of Exhibit B (Pricing Schedules). Contractor shall only invoice for Services identified in Exhibit B (Pricing Schedules). No discount, promotion, credit or waiver set forth in a Tariff, Guidebook, Catalog or Service Guide will apply to Services under this Contract unless specifically referenced in Exhibit B (Pricing Schedules). All tasks required to perform the Services and fulfill Contractor's obligations under Exhibits A-1, A-2 and A-3 of Exhibit A (Statements of Work) shall be supplied to County at the sole cost of Contractor. All tasks outside Contractor's obligations under Exhibit A (Statements of Work) shall be separately negotiated, pursuant to the terms of this Contract by the parties.

- 5.2 Contractor shall not be entitled to payment or reimbursement for any tasks or Services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein.
- 5.3 Except for Services provided by Contractor pursuant to Paragraph 8.47 (Contractor's Obligation upon Termination), unless County authorizes further Service and the parties agree upon the prices for such Service prior to expiration or termination of this Contract, Contractor shall have no claim against County for payment of any money or reimbursement of any kind whatsoever for any Service provided by Contractor after the expiration or other termination of this Contract. Should Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for Services rendered after expiration/termination of this Contract shall not constitute a waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Contract. Consistent with this Paragraph 5.3, Contractor shall terminate all Services, tasks and work upon expiration or termination of this Contract or otherwise pursuant to Paragraph 8.47 (Contractor's Obligation upon Termination).
- 5.4 Contractor shall pay County an annual bonus amount of one million five-hundred thousand dollars (\$1,500,000) for each year of the initial term and for each year of any subsequent extended term(s) of this Contract exercised by County pursuant to Paragraph 4.2. The annual bonus shall be paid to County within fifteen (15) days after the anniversary of the execution of the Contract each year. All payments made under this Paragraph 5.4 shall be issued as credits on County's monthly invoice. In the event that this Contract is terminated prior to the anniversary date of the execution of the Contract, the annual bonus amount for that year will be pro-rated based on the date of termination. The annual bonus does not apply to any period of time that Contractor may be providing Service to County pursuant to Paragraph 8.47 (Contractor's Obligation upon Termination) or any amortization period that extends beyond the term of the Contract as provided in Subparagraph 8.1.2.

5.5 Invoices and Payments

- 5.5.1 Contractor shall invoice County only for providing the tasks, deliverables, goods, Services, and other work specified in Exhibit A (Statements of Work) and elsewhere hereunder. The Contractor shall prepare invoices which shall include only the charges owed to Contractor by County under the terms of this Contract. Payments to Contractor by County shall be as provided in Exhibit B (Pricing Schedules), and Contractor shall be paid only for the tasks, deliverables, goods, Services, and other work authorized by this Contract. If Contractor performs work outside the scope of Exhibit A (Statements of Work) without obtaining County's written approval to

perform such work and written agreement on the rates for such work, then no payment shall be due to Contractor for that work.

- 5.5.2 Contractor's invoices shall be priced in accordance with Exhibit B (Pricing Schedules).
- 5.5.3 Contractor's invoices shall contain the information set forth in Exhibit A (Statements of Work) describing the tasks, deliverables, goods, Services, work hours, and facility and/or other work for which payment is claimed.
- 5.5.4 Contractor shall provide flexible billing cycles and County will have the option of selecting the bill cycle statement date that is most compatible with the County's Billing Management System. Based upon the agreed upon bill cycle date, Contractor shall submit the monthly invoice and the electronic data (both summary data and detail data) within fifteen (15) days of the selected bill cycle statement date.
- 5.5.5 All invoices under this Contract shall be submitted in two (2) copies to the following address:

County of Los Angeles
Internal Services Department
Attn: Telephone Utilities Unit
9150 E. Imperial Hwy., MS-35
Downey, CA 90242

- 5.5.6 All invoices submitted by Contractor for payment shall have the approval of County's Project Manager prior to any payment thereof which approval shall not be unreasonably withheld. In no event shall County be liable or responsible for any payment prior to such approval; provided, however, that absent a bona fide dispute that County has identified to Contractor, the failure of the County's Project Manager to approve an invoice does not excuse County from complying with the payment time frames defined in Subparagraph 5.5.8 below.
- 5.5.7 Prices set forth in Exhibit B (Pricing Schedules) are exclusive of, and County will pay, all current and future taxes (excluding those on Contractor's net income), surcharges, recovery fees, custom clearances, duties, levies, shipping charges, and other similar charges (and any associated interest and penalties resulting from County's failure to timely pay such taxes or similar charges) relating to the sale, transfer of ownership, installation, license, use or provision of the Services, except to the extent County provides satisfactory proof of a valid tax exemption prior to the delivery of Services.
- 5.5.8 County is responsible for providing a clear path from the curb to the service hand-off point. In addition, for fiber services County will meet

Contractor's standard room-ready requirements for the hand-off location that includes power and grounding standards.

Special Construction charges are not included in Contractor's monthly recurring or nonrecurring charges. Such charges are determined by Contractor at the time of circuit installation consistent with Contractor's tariffs on file with the CPUC and such charges shall not be greater than those provided for under such tariffs.

County's obligation to pay for all Services will begin upon installation and availability, following agreed upon acceptance and testing of the Services by County. Contractor will invoice County for the Services on a monthly basis.

Payment is due within thirty (30) days after the billing date ("Billing Date"). If payment is not made within fifty (50) days after the Billing Date, Contractor may charge late payment fees, (a) for Services contained in a Tariff, Guidebook or Catalog, at the rate specified therein, or (b) for all other Services, at the lower of one and one-half percent (1.5%) per month (18% per annum) or the maximum rate allowed by law for overdue payments. Contractor shall send all invoices via either overnight private carrier (e.g., FedEx) or confirmed mail for receipt by County no later than seven (7) Business Days after the Billing Date. If Contractor fails to send an invoice within the seven (7) Business Day period described above, Contractor shall extend the payment period by a term equal to the time lost by reason of the mailing delay. Invoices will refer to the invoice number. Restrictive endorsements or other statements on checks are void.

Contractor and County shall use commercially reasonable efforts to resolve billing disputes within thirty (30) days. Payments on disputed charges may be withheld by County and no late payment charges will apply to the disputed amount pending resolution of the claim using the procedures set forth in Paragraph 8.30 (Dispute Resolution Procedure). Upon resolution of the dispute, Contractor shall issue to County any applicable credit or reinstate the disputed amount as an amount due on the next periodic invoice.

5.6 Rate Benchmarking

- 5.6.1 If County is offered a service proposal for Qualifying Services from an alternative service provider that is priced at least ten percent (10%) less than the Services provided to County by Contractor, County shall provide Contractor written notice of the service proposal in reasonably sufficient detail (but without violating any confidential obligation with such other service provider in connection with providing the requested information) so that Contractor will have the option to respond to the rates and terms offered by such alternative service provider for the Services provided pursuant to this Contract. As used in this

Subparagraph, the term "Qualifying Services" shall mean any of the following five categories of goods and service under similar quantities, terms and conditions, and delivery conditions that Contractor offers such category of goods and services under this Contract; (i) the entire suite of Centrex services and features offered by Contractor under Exhibit A-1 (Statement of Work for Local Services); (ii) the entire suite of Messaging goods and services offered by Contractor under Exhibit A-1 (Statement of Work for Local Services); (iii) the entire suite of remaining goods and services (exclusive of Centrex and Messaging) offered by Contractor under Exhibit A-1 (Statement of Work for Local Services); (iv) the entire suite of goods and services offered by Contractor under Exhibit A-2 (Statement of Work for Long Distance Services); and (v) the entire suite of goods and services offered by Contractor under Exhibit A-3 (Statement of Work for Managed IP Services).

5.6.2 As part of the Services, County shall have the ongoing right to initiate the benchmarking process described below:

(a) Contractor and County will periodically review, and as required, Contractor will make adjustments to this Contract's prices, rates and charges.

(b) On or after the thirteenth (13th) month after the Effective Date and once annually thereafter until any termination or expiration of this Contract, County may select and engage an independent third party (a "Benchmarker"), to benchmark Qualifying Service(s) in this Contract. In addition to the annual benchmarking activity, County shall have the right to engage, at County's own expense, a Benchmarker to conduct additional benchmarking activities within twelve (12) months prior to any termination or expiration of the Contract, provided that each such additional benchmarking activity is conducted no sooner than six (6) months after the annual benchmarking activity. County and Contractor will discuss in advance the scope, methodology, relative comparisons and execution for each benchmarking process (the "Benchmarking Process") and County will make the final determination of the Benchmarking Process. Each Benchmarking Process will be conducted, and the results documented, by the Benchmarker in a commercially reasonable manner and in accordance with the applicable Benchmarking Process. County and Contractor will review the results of each benchmark and determine if such benchmark results show that the charges under the Contract for the benchmarked Qualifying Service(s) are less favorable to County than the prices offered by any other service provider examined by the Benchmarker for Qualifying Services (the "Benchmarking Standard"). If the benchmark results show a variance between the prices, charges or fees for the benchmarked Qualifying Service(s) charged by Contractor hereunder and the Benchmarking Standard by greater than five percent (5%), then Contractor shall reduce its charges hereunder such that Contractor's

total charges in the aggregate for the benchmarked Qualifying Service(s) are within five percent (5%) of the Benchmarking Standard. The parties agree that in no event shall the results of a benchmarking result in the increase of Contractor's prices, charges or fees. The effective date of such rate adjustment shall be the first day of the next billing cycle following the conclusion of the Benchmarking Process and the execution by the parties of an amendment pursuant to Subparagraph 8.1.2 below.

5.7 Revenue Achievement Bonus

Contractor shall provide County an annual bonus for revenue achievement ("Revenue Achievement Bonus") through the term of the Contract and any subsequent term extensions pursuant to Paragraph 4.2. All payments made under this Paragraph 5.7 shall be issued as credits on County's monthly bill.

5.7.1 For County Billed Revenue

For the first year of this Contract only, if the total billed revenue for all Services purchased under this Contract by County matches or exceeds \$45,000,000.00, a Revenue Achievement Bonus discount of .0025 will apply to the total billed revenue amount and shall be credited to County's monthly billing as set forth below.

For all subsequent years of this Contract, Contractor and County will benchmark the total amount billed to County for the first year of this Contract, beginning with the Effective Date of this Contract. When the total billed revenue for all Services purchased under this Contract by County in a subsequent annual period matches or exceeds the first year benchmark total, the following discounts will apply to the total billed revenue amount. The Revenue Achievement Bonus shall not exceed five hundred thousand dollars (\$500,000.00) annually.

<u>Total Revenue Amount</u>	<u>Credit</u>
Benchmark to (Benchmark + \$999,999.99)	.0025
(Benchmark + \$1,000,000) to (Benchmark + \$1,999,999.99)	.0050
(Benchmark + \$2,000,000) to (Benchmark + \$3,999,999.99)	.0075
Benchmark + \$4,000,000 or greater	.0100

Contractor shall provide County with a report of total billed revenue from County at the end of each annual period of the Contract. The Revenue Achievement Bonus shall be calculated and distributed as a credit to County's monthly billing within sixty (60) days of the Contract anniversary date, or within sixty (60) days of the expiration or termination of this Contract.

5.7.2 For Participating Entity Billed Revenue

Contractor will benchmark the total amount billed to Participating Entities for the first year of this Contract, beginning with the Effective

Date of this Contract. When the total billed revenue for all Services purchased under this Contract by all Participating Entities in a subsequent annual period matches or exceeds the first year benchmark total, the following discounts will apply to the total billed revenue amount. The Revenue Achievement Bonus shall not exceed five hundred thousand dollars (\$500,000.00) annually.

<u>Total Revenue Amount</u>	<u>Credit</u>
Benchmark to (Benchmark + \$999,999.99)	.0025
(Benchmark + \$1,000,000) to (Benchmark + \$1,999,999.99)	.0050
(Benchmark + \$2,000,000) to (Benchmark + \$3,999,999.99)	.0075
Benchmark + \$4,000,000 or greater	.0100

Contractor shall provide County with a report of total billed revenue from Participating Entities at the end of each annual period of the Contract. The Revenue Achievement Bonus shall be calculated and distributed as a credit to County's monthly billing within sixty (60) days of the Contract anniversary date, or within sixty (60) days of the expiration or termination of this Contract.

6.0 ADMINISTRATION OF CONTRACT – COUNTY

A listing of all County administration personnel referenced in this Paragraph 6.0 is set forth in Exhibit E (County's Administration). County shall notify Contractor in writing of any change in the names or addresses shown.

6.1 County's Program Director

Responsibilities of County's Program Director include:

- providing overall executive responsibility of this Contract; and
- delegating to his/her designee(s) the responsibilities included above.

County's Program Director is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate County in any respect whatsoever.

6.2 County's Program Manager

Responsibilities of County's Program Manager include:

- ensuring that the objectives of this Contract are met;
- monitoring Contractor's performance in the daily operation of this Contract;
- providing direction to Contractor in the areas relating to County policy, information requirements, and procedural requirements; and

- delegating to his/her designee(s) the responsibilities set forth above.

County's Program Manager is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate County in any respect whatsoever.

6.3 County's Project Manager

The responsibilities of County's Project Manager include:

- meeting with Contractor's Program Manager on a regular basis; and
- inspecting any and all tasks, deliverables, goods, Services, or other work provided by or on behalf of Contractor.

County's Project Manager is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate County in any respect whatsoever.

6.4 County's Billing Manager

The responsibilities of County's Billing Manager include:

- ensuring that the billing and payment objectives of this Contract are met; and that invoices are reviewed and analyzed, with discrepancies and/or disputes reported to contractor for corrective action;
- providing direction to Contractor on billing and payment requirements, and procedural requirements for posting and processing vendor telecommunications charges; and
- coordinating the implementation of new billing formats, data elements, accounts, types of charges/services, etc.; and

County's Billing Manager is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate County in any respect whatsoever.

7.0 ADMINISTRATION OF CONTRACT – CONTRACTOR

A listing of all Contractor's administration personnel referenced in this Paragraph 7.0 is set forth in Exhibit F (Contractor's Administration). Contractor shall notify County in writing of any change in the names or addresses shown.

7.1 Contractor's Program Director

Contractor's Program Director is designated in Exhibit F (Contractor's Administration). Contractor's Program Director shall be a full-time employee of

Contractor. Contractor's Program Director shall be responsible for Contractor's performance of all tasks and deliverables, and ensuring Contractor's compliance with this Contract. Contractor shall notify County in writing of any change in the name or address of Contractor's Program Director.

7.2 Contractor's Program Manager

Contractor's Program Manager shall be a full-time employee of Contractor. Contractor's Program Manager shall be responsible for Contractor's day-to-day activities as related to this Contract and shall coordinate with County's Program Manager and County's Project Manager on a regular basis.

Contractor's Program Manager shall be dedicated to this Contract as a central point of contact with County and shall represent Contractor in all day-to-day dealings with County. County shall have reasonable access to the Contractor's Program Manager or alternate during all hours, 365 days per year. Contractor shall provide a telephone number where the Contractor's Program Manager and alternate may be reached on a twenty-four (24) hour per day basis.

Contractor's Program Manager shall have direct responsibility for all Services performed by Contractor and its Subcontractors and shall have full authority to act for Contractor on all matters relating to the daily operation of this Contract. Contractor's Program Manager shall have authority to direct the work of all Contractor staff dedicated to and perform work on this Contract. Contractor's Program Manager must effectively communicate in English, both orally and in writing.

7.3 Contractor's Alternate Program Manager

Contractor's Alternate Program Manager shall assume all the duties of Contractor's Program Manager in the event Contractor's Program Manager is not available to County. Contractor's Alternate Program Manager must effectively communicate in English, both orally and in writing.

7.4 Contractor's Area Manager

Contractor's Area Manager is responsible for delivering high quality service assurance in support of this Contract, involving all of Contractor's products and services. Contractor's Area Manager shall have the authority to prioritize and redirect Contractor's installation and repair resources.

7.5 Contractor's Service Executive

Contractor's Service Executive shall have the primary responsibility to become County's advocate in all matters dealing with this Contract and to provide County with total service assurance. Contractor's Service Executive is required to adopt County's focus, and is responsible to bring this focus

throughout Contractor's organizations to resolve issues that have not been resolved through normal, established processes. Contractor's Service Executive shall have the authority to escalate service issues raised by County.

7.6 Contractor's Transition Manager

Contractor's Transition Manager shall be a designated Project Manager to assure the transition of services in this Contract takes place with a minimal disruption of service. Contractor's Transition Manager shall be certified, with experience managing projects of a similar size and importance, and will have an office located in Los Angeles, or a neighboring county.

7.7 Contractor's Sales Vice President

Contractor's Sales Vice President shall be a full-time employee of Contractor. Contractor's Sales Vice President shall be responsible for Contractor's performance of all tasks and deliverables, and ensuring Contractor's compliance with this Contract. Contractor's Sales Vice President has been intentionally omitted from Exhibit F (Contractor's Administration).

7.8 Approval of Contractor's Staff

County has the absolute right to approve or disapprove Contractor's staff as set forth in Exhibit F (Contractor's Administration). Approval by County shall not be unreasonably withheld, and County shall take all necessary steps to ensure that approval is granted in a prompt manner. Contractor shall exercise reasonable efforts to minimize changes to Program Director and Program Manager during the term of this Contract. Contractor shall exercise all reasonable efforts to maintain continuity over time of Contractor's staff as identified in Exhibit F (Contractor's Administration). In the event the needs of Contractor's business support a change, or the individual is eligible for a promotion or other positive type of employment opportunity, or the individual's personal life requires a change, Contractor shall have the right to transfer an individual. Contractor shall exercise reasonable efforts to notify the County prior to transferring the employee and Contractor shall provide County with a resume of each proposed staff member and an opportunity to interview and provide written approval prior to that person being assigned to the position. Contractor shall promptly fill any such vacancy with personnel having comparable skills in terms of experience in the required work areas, as of those individuals set forth in Exhibit F (Contractor's Administration) at the time of Contract execution. Contractor shall assign a sufficient number of employees to perform the required work. At least one (1) employee on site shall be authorized to act for Contractor in every detail and must speak and understand English.

7.9 Contractor's Staff Identification

Contractor shall provide, at Contractor's expense, all staff providing Services under this Contract at County facilities with a photo identification badge, the

form of which shall be subject to the reasonable approval of County's Program Director. Contractor employees assigned to County facilities shall wear appropriate attire for the work being performed at all times consistent with Contractor's policies, union rules and California OSHA safety requirements. Contractor shall ensure their employees are appropriately identified as set forth in this Paragraph 7.9.

7.10 Contractor's Material and Equipment

Except as set forth otherwise in this Contract, the purchase of all materials/equipment to provide the needed Services is the sole responsibility of Contractor. Contractor shall use materials and equipment that are safe for the environment and safe for use by the Contractor's staff.

7.11 Contractor's Training

Contractor shall provide training programs for all new staff and continuing in-service training for all staff. All staff shall be trained in their assigned tasks and in the safe handling of equipment. All equipment shall be checked at reasonable intervals for safety, as on a daily basis for safety, if needed. All employees must wear safety and protective gear according to OSHA standards for the work being performed.

7.12 Contractor's Hours and Days of Work

Contractor shall provide Services twenty-four (24) hours daily for the term of this Contract, with the exception of scheduled outages or outages beyond the reasonable control of Contractor. Individual tasks shall be scheduled by County according to County needs and with the agreement of Contractor.

7.13 Contractor's Office

Contractor shall maintain an office with twenty-four (24) hour telephone service. The office shall be staffed during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, by at least one (1) employee who can respond to inquires and complaints which may be received about Contractor's performance of the Contract. When the office is closed, an answering service shall be provided to receive calls. Contractor shall respond to calls received by the answering service within two (2) hours of receipt of the call.

7.14 Background and Security Investigations

7.14.1 At any time prior to or during term of this Contract, County may require that Contractor's Program Director, Contractor's Program Manager, and all staff identified in Exhibit F (Contractor's Administration) performing work under this Contract undergo and pass, to the satisfaction of County, a background investigation, as a condition of beginning and continuing to work under this Contract. County shall use its discretion in determining the method of background clearance to be used, up to

and including a County performed fingerprint security clearance. The fees associated with obtaining the background information shall be at the expense of Contractor, regardless if Contractor's staff passes or fails the background clearance investigation.

7.14.2 Based on reasonable cause, County may request that members of Contractor's staff be immediately removed from working on this Contract at any time during the term of this Contract. County will not provide to Contractor nor to Contractor's staff any information obtained through County conducted background clearance.

7.14.3 County may, at the sole discretion of County, immediately deny or terminate facility access to those of Contractor's staff who do not pass such investigation(s) to the satisfaction of County or whose background or conduct is incompatible with County facility access.

7.14.4 Disqualification, if any, of Contractor's staff pursuant to this Paragraph 7.14 shall not relieve the Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract. County shall make every reasonable effort to notify Contractor prior to disqualifying any of Contractor's staff.

7.15 Confidentiality

7.15.1 "Confidential Information" means ideas, know-how, trade secrets, computer programs, technical information, and other confidential information which is disclosed by a disclosing party to a receiving party under this Contract. Written or other tangible confidential information shall at the time of disclosure be identified and labeled as confidential information belonging to the disclosing party. When disclosed orally or visually, confidential information shall be identified as confidential at the time of the disclosure, with subsequent confirmation in writing within fifteen (15) days after disclosure. Each party shall maintain the confidentiality of all records obtained from the other party under this Contract in accordance with all applicable federal, State or local laws, ordinances, regulations and directives relating to confidentiality and shall protect the other party's Confidential Information with the same degree of care and in accordance with the security regulation by which it protects its own confidential business records. To the extent not prohibited by federal, State or local authority relating to confidentiality, neither party may during the Term and for three years thereafter disclose any of the other party's Confidential Information to any third party. Neither party may use the other party's Confidential Information except to perform its duties under this Contract. The Confidential Information restrictions will not apply to Confidential Information that is (i) already known to the receiving party, (ii) becomes publicly available through no wrongful act of the receiving party, (iii) independently developed by the receiving party without benefit of the disclosing party's Confidential Information, or (iv) disclosed by the disclosing party to a

third party without an obligation of confidentiality. Until directed otherwise by County in writing, Contractor's Program Director, Program Manager, and all staff supporting this Contract may discuss and disclose County's customer proprietary network information (CPNI) to any employee or agent of County without a need for further authentication or authorization.

7.15.2 Each party shall inform all of its officers, employees, agents and Subcontractors providing Services hereunder of the confidentiality provisions of this Contract.

7.15.3 As appropriate to the work done on this Contract by members of Contractor's staff, each such member of Contractor's staff shall sign and adhere to the provisions of Exhibit G (Contractor Employee Acknowledgement, Confidentiality Agreement and Assignment of Copyright). Where appropriate and reasonable, either party may require non-employees of the other party to execute a nondisclosure agreement in a form agreeable to both parties prior to such non-employees obtaining access to the other party's Confidential Information.

8.0 STANDARD TERMS AND CONDITIONS

8.1 Change Notices and Amendments

8.1.1 County reserves the right to initiate Change Notices that add services as they become available, or do not change the scope, term, Contract Sum or payments. All such agreed changes shall be accomplished with an executed Change Notice signed by the Contractor and by County's Program Director or designee.

8.1.2 Certain Change Notices may include, on an as-needed basis, requests for specific serving arrangements under the Contract with amortization periods that extend beyond the term of the Contract. This type of Change Notice shall be agreed upon by both parties and shall generally be in the form of Exhibit L (Sample Change Notice).

8.1.3 For any change which materially affects the scope of work, term, contract sum, payments, or any term or condition included under this Contract, a written amendment to this Contract shall be prepared, agreed upon and executed by the Contractor's authorized representative and by the Director or his/her designee, notwithstanding that County has the sole and unilateral option to extend the term of this Contract pursuant to Paragraph 4.2 and that Contractor is obligated to execute any such Amendment memorializing County's exercise of its rights under Paragraph 4.2.

8.1.4 The Board may require the addition and/or change of certain terms and conditions in this Contract during the term of this Contract resulting from

policies, ordinances and/or directives adopted by the Board which are generally applicable to all County contracts. County reserves the right to add and/or change such terms and conditions of this Contract as required by the Board. To implement any such additions and/or changes, a written amendment to this Contract shall be executed by Contractor's authorized representative and by the Director or his / her designee. If an addition and/or change to the terms and conditions of this Contract under this Subparagraph has, in the reasonable opinion of Contractor, a material adverse financial effect on Contractor then Contractor shall notify County of its concern. Such notice to County shall explain in detail the material adverse financial effect Contractor contends will occur, which explanation shall include Contractor's best estimate of the annual dollar amount of such adverse financial effect. Once notice is provided to County under this Subparagraph, County shall have the right to mitigate the material adverse financial effect identified by Contractor. If mitigated so the addition and/or change is no longer material, then this Contract may not be terminated by Contractor. Contractor and County shall act in good faith to mitigate the material adverse financial impact identified by Contractor and acknowledged by County. If County cannot mitigate the material adverse financial effect, Contractor may, as Contractor's sole remedy, elect to terminate this Contract within ninety (90) days of the effective date of such addition and/or change upon giving sixty (60) days written notice to County. Contractor and County shall act in good faith to modify the termination time periods or other terms of this Subparagraph to allow County to mitigate the material adverse financial impact identified by Contractor. In the event of a termination under this Subparagraph, Contractor shall continue to provide Services to County pursuant to Paragraph 8.47 (Contractor's Obligations Upon Termination) of this Contract, provided that County may extend the service duration under Paragraph 8.47 (Contractor's Obligations Upon Termination) from eighteen (18) months to thirty (30) months.

8.2 Assignment and Delegation

8.2.1 Contractor shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior consent of County, which will not be unreasonably withheld or delayed, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this Paragraph 8.2, County consent shall require a written amendment to this Contract which is formally approved and executed by the parties. Any payments by County to any approved delegate or assignee on any claim under this Contract shall be deductible, at County's sole discretion, against the claims, which Contractor may have against County. Notwithstanding the foregoing, Contractor may assign all or any part of this Contract to an Affiliate and/or use Subcontractors, pursuant to Paragraph 8.39 (Subcontracting), to perform Services.

8.2.2 Shareholders, partners, members or other equity holders of Contractor may transfer, sell, exchange, assign or divest themselves of any interest they may have therein. However, in the event of any such sale, transfer, exchange, assignment or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership or legal entity other than the majority controlling interest therein at the time of the execution of this Contract, Contractor shall give notice thereof to County as soon as reasonably possible and County shall have the right, based solely on the change in majority control of Contractor, to terminate this Contract within ninety (90) days of receiving such notice with no associated costs or fees for such termination. Contractor shall continue to provide Services to County pursuant to Paragraph 8.47 (Contractor's Obligations Upon Termination) of this Contract.

8.2.3 If any assumption, assignment, delegation, or takeover of any of Contractor's duties, responsibilities, obligations, or performance of same by any entity other than Contractor, whether through assignment, Subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior approval, shall be a material breach of this Contract by Contractor which may result in the termination of this Contract, at the discretion of County. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of any other breach or default by Contractor. Notwithstanding the foregoing, Contractor may assign all or any part of this Contract to an Affiliate and/or use Subcontractors, pursuant to Paragraph 8.39 (Subcontracting), to perform Services.

8.3 Authorization Warranty

Each party represents and warrants that the person executing this Contract for that party is an authorized agent who has actual authority to bind that party to each and every term, condition, and obligation of this Contract and that all requirements of that party have been fulfilled to provide such actual authority.

8.4 Budget Reductions

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

Contract. Nothing in this Paragraph shall be interpreted to alleviate County's obligation under this Contract to pay Contractor for services performed by Contractor that are otherwise accepted by County under the terms of this Contract.

8.5 Complaints

Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

Within ten (10) Business Days after Contract effective date, Contractor shall provide County with Contractor's policy for receiving, investigating and responding to user complaints.

County will review Contractor's policy and provide Contractor with approval of said plan or with requested changes.

If County requests changes in Contractor's policy, Contractor shall, if agreeable, make such changes and resubmit the plan within five (5) Business Days for County approval.

If, at any time, Contractor wishes to materially change Contractor's policy as it pertains to County, Contractor shall submit proposed changes to County for approval before implementation.

Contractor shall preliminarily investigate all written complaints and notify County's Project Manager of the status of the investigation within five (5) Business Days of receiving the complaint.

When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.

Copies of all written responses shall be sent to County's Project Manager within three (3) Business Days of mailing to the complainant.

8.6 Compliance with Applicable Law

Each party shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, directives, policies and procedures, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference. Applicable Federal Communication ("FCC") Rules and Regulations regarding percent interstate and international usage shall apply to County traffic depending on whether the Service is intrastate or interstate jurisdictionally. County will be required to certify compliance with these rules. For jurisdictionally intrastate Services, County will be required to certify that that the total interstate traffic constitutes ten percent (10%) or less of the total traffic on the Service. For jurisdictionally interstate Services, County will be required to certify that that the total interstate traffic constitutes

more than ten percent (10%) of the total traffic on the Service. This Paragraph 8.6 shall only apply to Services provided for under Exhibit A-1 (Statement of Work for Local Services) and Exhibit A-2 (Statement of Work for Long Distance Services).

8.6.1 Contractor shall indemnify and hold harmless County from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, arising from or related to any violation on the part of Contractor or its employees, agents, or Subcontractors of any such laws, rules, regulations, ordinances, directives, policies or procedures.

8.7 Compliance with Civil Rights Laws

Contractor shall comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. Contractor shall comply with Exhibit D (Contractor's EEO Certification).

8.8 Compliance with County's Jury Service Program

This Contract is subject to the provisions of County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached hereto as Exhibit H (Jury Service Ordinance) and incorporated herein by this reference.

8.8.1 Written Employee Jury Service Policy

1. Unless Contractor has demonstrated to County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its Employees shall receive from Contractor, on an annual basis, no less than five (5) Business Days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with Contractor or that Contractor deduct from the Employee's regular pay the fees received for jury service.
2. For purposes of this Subparagraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with County or a Subcontract with a County contractor

and has received or will receive an aggregate sum of \$50,000 or more in any twelve (12) month period under one or more County contracts or Subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means forth (40) hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of ninety (90) Business Days or less within a twelve (12) month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any Subcontractor to perform services for County under this Contract, the Subcontractor shall also be subject to the provisions of this Paragraph 8.8. The provisions of this Paragraph 8.8 shall be inserted into any such Subcontract agreement and a copy of the Jury Service Program shall be attached to the Subcontract agreement.

3. If Contractor is not required to comply with the Jury Service Program when this Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Jury Service Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. County may also require, at any time during this Contract and at its sole discretion, that Contractor demonstrate to County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.
4. Contractor's violation of this Paragraph 8.8 may constitute a material breach of this Contract. In the event of such material breach, County may, in its sole discretion, terminate this Contract and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

8.9 Conflict of Interest

- 8.9.1 No County employee whose position with County enables such employee to influence the award of this Contract or any competing contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of Contractor who may financially benefit from the

performance of work hereunder shall in any way participate in County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such work.

8.9.2 Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. Contractor warrants that it is not now aware of any facts that create a conflict of interest. If Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this Paragraph 8.9 shall be a material breach of this Contract.

8.10 Consideration of Hiring County Employees Targeted for Layoff/or Re-Employment List

Should Contractor require additional or replacement personnel after the effective date of this Contract to perform the Services set forth herein, Contractor shall give consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Contract.

8.11 Consideration of Hiring Gain/Grow Program Participants

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

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

8.12 Contractor Responsibility and Debarment

8.12.1 Responsible Contractor

A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and

experience to satisfactorily perform the contract. It is County's policy to conduct business only with responsible contractors.

8.12.2 Chapter 2.202 of the County Code

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

8.12.3 Non-responsible Contractor

County may debar a contractor if the Board finds, in its discretion, that the contractor has done any of the following: (1) violated a material term of a contract with County or a nonprofit corporation created by County which breach was uncured by contractor as allowed in the at-issue contract, (2) committed an act or omission which negatively reflects on the contractor's quality, fitness or capacity to perform a contract with County, any other public entity, or a nonprofit corporation created by County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against County or any other public entity.

8.12.4 Contractor Hearing Board

1. If there is evidence that Contractor may be subject to debarment, ISD will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. Contractor and/or Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether Contractor should be debarred, and, if so, the appropriate length of time of the debarment. Contractor and ISD shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board.

3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board. The Board shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a contractor has been debarred for a period longer than five (5) years, that contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of County.
5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board. The Board shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.12.5 Subcontractors of Contractor

These terms shall also apply to Subcontractors of County contractors.

8.13 Contractor's Acknowledgement of County's Commitment to the Safely Surrendered Baby Law

Contractor acknowledges that County places a high priority on the implementation of the Safely Surrendered Baby Law. Contractor understands that it is County's policy to encourage all County contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the contractor's place of business. Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. County's Department of Children and Family Services will supply Contractor with the poster to be used. Information on how to receive the poster can be found on the Internet at www.babysafela.org.

8.14 Contractor's Warranty of Adherence to County's Child Support Compliance Program

8.14.1 Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

8.14.2 As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Contract to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Contract maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

8.15 County's Quality Assurance Plan

County or its agent may elect to evaluate Contractor's performance under this Contract on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all Contract terms and conditions and performance standards. Contractor deficiencies which County determines are severe or continuing and that may place performance of this Contract in jeopardy if not corrected will be reported to the Board. The report will include improvement/corrective action measures taken by County and Contractor. If improvement does not occur consistent with the corrective action measures, County may pursue available remedies for default under Paragraph 8.42 (Termination for Default) below or impose other applicable penalties as specified in this Contract.

8.16 Damage to County Facilities, Buildings or Grounds

8.16.1 Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings, or grounds directly caused by Contractor or employees or agents of Contractor. Such repairs shall be made immediately after Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

8.16.2 If Contractor fails to make timely repairs, County may make any necessary repairs. All reasonable costs incurred by County, based on a) internal cost should County perform repairs internally or b) actual external cost should County perform repairs through a third party, provided for that County follow its procurement process for such repairs, shall be submitted to Contractor for repayment with supporting documentation, for such costs. County shall be repaid by Contractor by cash payment upon demand or, at County's option, deducted from any outstanding payments for Service owed by County to Contractor. Notwithstanding the preceding sentence, Contractor shall have five (5) Business Days to review such costs. If Contractor disputes the amount of any such costs, Contractor shall pay or County shall deduct from outstanding payments due Contractor all amounts. Contractor may then make claim to recover such amounts through procedures set forth in Paragraph 8.30 (Dispute Resolution Procedure).

8.16.3 County will make reasonable efforts to ensure that the location within a County facility at which Contractor installs, maintains or provides Services is a safe working environment, free of Hazardous Materials. To the extent that County becomes aware that a location within a County facility is not a safe working environment, free of Hazardous Materials, County will provide timely notification of such conditions to Contractor prior to Contractor's commencement of Services at that location. "Hazardous Materials" means any substance or material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal, or release is regulated by any law related to pollution, protection of air, water, or soil, or health and safety. Contractor does not handle, remove or dispose of Hazardous Materials, and Contractor has no obligation to perform work at a location that is not a suitable and safe working environment. Contractor will not be liable for any Hazardous Materials or any removal or remediation costs.

8.17 Employment Eligibility Verification

8.17.1 Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. Contractor shall obtain, from all employees

performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by law.

8.17.2 Contractor shall indemnify, defend, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract who are employed by Contractor.

8.18 Facsimile Representations

County and Contractor hereby agree to regard facsimile representations of original signatures of authorized officers or managers of each party, when appearing in appropriate places on the Amendments to this Contract prepared pursuant to Paragraph 8.1 (Change Notices and Amendments), and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments to this Contract, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

8.19 Fair Labor Standards

Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by Contractor's employees for which County may be found jointly or solely liable.

8.20 Governing Law, Jurisdiction, and Venue

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles. Nothing in this Contract is intended, or should be construed, to limit a party's right to seek preliminary or permanent injunctive relief from a court of competent jurisdiction for a breach of any provision of this Contract.

8.21 Independent Contractor Status

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

8.21.2 Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor.

8.21.3 Contractor understands and agrees that all persons supplied by Contractor who are performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of Contractor and not employees of County. Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of Contractor pursuant to this Contract.

8.21.4 Each party shall adhere to the provisions stated in Paragraph 7.15 (Confidentiality).

8.22 Indemnification

Each party shall indemnify, defend and hold harmless the other party, its Special Districts, elected and appointed officers, directors, employees, and/or agents from and against any and all third party claims and related liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), for bodily injury, death, personal injury, or damage to tangible real or tangible personal property directly arising from or connected with the indemnifying party's negligent acts or omissions and/or willful misconduct arising from and/or relating to this Contract. Any obligation to indemnify and/or any liability of the indemnifying party for damages under this Paragraph 8.22 shall correspond to the relative and proportionate responsibility of the indemnifying party for such damages. The indemnifying party's obligation to defend and indemnify the other party is contingent upon (i) the other party providing the indemnifying party prompt written notice of any claim; and (ii) the other party providing the indemnifying party all reasonable information and assistance requested by the indemnifying party to settle, defend, or bring a countersuit in conjunction with any claim.

8.23 General Insurance Requirements

Without limiting Contractor's indemnification of County and during the term of this Contract, Contractor shall provide and maintain, and shall require all of its Subcontractors to maintain, the following programs of insurance specified in this Contract. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County. Such coverage shall be provided and maintained at Contractor's own expense. Alternatively, Contractor may satisfy these requirements through self-insurance.

8.23.1 Evidence of Insurance: Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to:

Division Manager
Internal Services Contracting Division
1100 N. Eastern Avenue
Los Angeles, CA 90063

prior to commencing Services under this Contract. Such certificates or other evidence shall:

- Specifically identify this Contract;
- Clearly evidence all coverages required in this Contract;
- Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;
- Include copies of the additional insured endorsement to the commercial general liability policy, including the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this Contract; and
- County retains the right to require Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

8.23.2 Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to County with an A.M. Best rating of not less than A:VII unless otherwise approved by County.

8.23.3 Failure to Maintain Coverage: Failure by Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of this Contract

upon which County may immediately terminate or suspend this Contract. County, at its sole option, may obtain damages from Contractor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to the Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

8.23.4 Notification of Incidents, Claims or Suits: Contractor shall report to County:

- Any accident or incident relating to Services performed under this Contract which involves injury or property damage which may result in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within twenty-four (24) hours of occurrence.
- Any third party claim or lawsuit filed against Contractor arising from or related to Services performed by Contractor under this Contract.
- Any injury to a Contractor employee that occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to County's Project Manager.
- Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Contractor under the terms of this Contract.

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

8.23.6 Insurance Coverage Requirements for Subcontractors: Contractor shall ensure any and all Subcontractors performing Services under this Contract meet the insurance requirements of this Contract by either:

- Contractor providing evidence of insurance covering the activities of Subcontractors, or
- Contractor providing evidence submitted by Subcontractors evidencing that Subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of Subcontractor insurance coverage at any time upon reasonable notice.

8.24 Insurance Coverage Requirements

8.24.1 **General Liability Insurance** written on ISO policy form CG 00 01 or its equivalent with limits of not less than the following:

General Aggregate:	\$4 million
Products/Completed Operations Aggregate:	\$2 million
Personal and Advertising Injury:	\$2 million
Each Occurrence:	\$2 million

8.24.2 **Automobile Liability Insurance** written on ISO policy form CA 00 01 or its equivalent with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

8.24.3 **Workers' Compensation and Employers' Liability Insurance** providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible. This insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

8.24.4 **Errors and Omissions Liability Insurance** with limits of not less than \$5 million per claim and \$5 million aggregate. Such insurance also shall provide contractual liability, personal injury and intellectual property (copyright infringement) liability coverage.

8.25 Assessed Fees

8.25.1 Billing Inaccuracies and Disputes

If, in the judgment of the Program Director or his/her designee, Contractor's invoice is deemed inaccurate, County will notify Contractor and Contractor and County shall exercise commercially reasonable efforts to resolve such billing dispute within thirty (30) days. In addition to, or in lieu of, other remedies provided herein, payments on disputed charges may be withheld by County and no late payment charges will apply to the disputed amount pending resolution of the claim. If not resolved to County's satisfaction within thirty (30) days, County and Contractor shall resolve the claim through the procedures set forth in Section 8.30 (Dispute Resolution Procedure) below. Upon resolution of the dispute, Contractor shall issue to County any applicable credit or reinstitute the disputed amount as an amount due on the next periodic invoice.

8.25.2 Contractor's Non-Compliance with Material Terms or Obligations.

If, in the judgment of the Program Director or his/her designee, Contractor is deemed to be non-compliant with material terms and obligations assumed hereby or a repeat failure (defined as more than one failure of the same kind on the same line/circuit/telephone number within a rolling thirty (30) day period) concerning a non-insignificant service issue occurs, the Program Director or his/her designee, shall notify Contractor of, and meet with Contractor to confer regarding the underlying failures or deficiencies in Contractor's performance. Contractor shall be provided a reasonable cure period (not to exceed sixty (60) calendar days). If a cure to County's satisfaction is not achieved by Contractor during the permitted cure period, an automatic escalation shall occur to Contractor's Regional Sales Vice President. Within fifteen (15) days of the automatic escalation, Contractor shall describe to County the underlying issue(s) and the corrective action(s) that have been implemented. If the corrective action(s) do not resolve the specific non-compliance or failure to County's satisfaction, Contractor and County shall resolve the matter through the procedures set for in Paragraph 8.30 (Dispute Resolution Procedure) below.

If, in the judgment of the Program Director or his/her designee, the specific non-compliance or failure reoccurs within twelve (12) months of its last occurrence, County may do any or all of the following:

- (a) Escalate the issue to Contractor's Sales Vice President.
- (b) Deduct assessed fees as specified in the Performance Requirements Summary (PRS) Chart. Contractor shall be liable to County for Assessed Fees in the specified amount. The amount specified in the PRS shall be deducted from County's payment to Contractor.
- (c) Upon giving five (5) Business Days notice to Contractor, County may correct the identified deficiencies. All reasonable costs incurred by County, based on actual cost of goods and services for such repairs performed internally by County, shall be submitted, with supporting documentation of the costs, to Contractor for repayment. County shall be repaid by Contractor by cash payment upon demand or, at County's option, such costs shall be deducted from any outstanding payments owed by County to Contractor for Services under this Contract. Notwithstanding the preceding sentence, Contractor shall have five (5) Business Days to review such costs. If Contractor disputes the amount of any such costs, Contractor shall pay or the County shall deduct from outstanding payments due Contractor all amounts not in good faith dispute. Disputed amounts may be withheld by Contractor and County shall not deduct such amounts pending resolution of the dispute

pursuant to the procedure set forth in Paragraph 8.30 (Dispute Resolution Procedure).

- (d) Notwithstanding the anything in this Subparagraph 8.25.2, Contractor may in good faith dispute (i) that it failed to perform its obligations under this Contract, or (ii) the amount of assessed fees retained by County, by providing written notice of such dispute to County within sixty (60) days of the County's withholding assessed fees. Contractor may then seek recovery of any such disputed amounts pursuant to Paragraph 8.30 (Dispute Resolution Procedure).

8.25.3 The action noted in this Paragraph 8.25 shall not be construed as a penalty, but as adjustment of payment to Contractor to recover County cost due to the failure of Contractor to complete or comply with the provisions of this Contract.

8.25.4 This Subparagraph shall not, in any manner, restrict or limit either party's rights under this Contract, including but not limited to County's right to damages for any breach of this Contract provided by law or as specified in the PRS or this Paragraph 8.25, and shall not, in any manner, restrict or limit County's right to terminate this Contract as agreed to herein.

8.26 Most Favored Public Entity

If Contractor's prices decline, or should Contractor at any time during the term of this Contract provide the same suite of goods within each individual Statement of Work under similar quantity, similar terms and conditions, and similar delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to County. The suite of goods and services to which this Paragraph 8.26 applies are; (i) the entire suite of goods and services offered by Contractor under Exhibit A-1 (Statement of Work for Local Services); (ii) the entire suite of goods and services offered by Contractor under Exhibit A-2 (Statement of Work for Long Distance Services); and (iii) the entire suite of goods and services offered by Contractor under Exhibit A-3 (Statement of Work for Managed IP Services).

8.27 Nondiscrimination and Affirmative Action

8.27.1 Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

- 8.27.2 Contractor shall certify to, and comply with, the provisions of Exhibit D (Contractor's EEO Certification).
- 8.27.3 Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 8.27.4 Contractor certifies and agrees that it will deal with its Subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental disability, marital status, or political affiliation.
- 8.27.5 Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract.
- 8.27.6 Contractor shall allow County representatives access to Contractor's employment records during regular business hours to verify compliance with the provisions of this Paragraph 8.27 when so requested by County subject to reasonable prior written notice and appropriate limitations.
- 8.27.7 If County finds that any provisions of this Paragraph 8.27 have been violated, such violation shall constitute a material breach of this Contract upon which County may terminate or suspend this Contract. While County reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Contract.
- 8.27.8 Contractor agrees that in the event Contractor violates any of the anti-discrimination provisions of this Contract, County shall, at its sole discretion and option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code

Section 1671 as liquidated damages, and not as a penalty, in lieu of terminating or suspending this Contract.

8.28 Non Exclusivity

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

8.29 Notice of Delays

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

8.30 Dispute Resolution Procedure

8.30.1 Contractor and County agree to act promptly and diligently to mutually resolve any disputes which may arise with respect to this Contract. All such disputes shall be subject to the provisions of this Paragraph 8.30.

8.30.2 Contractor and County agree that, the existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder, County shall continue to pay sums not in dispute during any such period of continued performance. If Contractor fails to continue without delay its performance hereunder which County, in its reasonable discretion, determines should not be delayed as a result of such dispute, then any additional costs which may be incurred by Contractor or County as a result of Contractor's failure to continue to so perform shall be borne by Contractor as such are mutually agreed by County and Contractor, and Contractor shall make no claim whatsoever against County for such costs. The cost incurred by County shall not exceed the fair market cost of performing the required action and County shall provide Contractor with supporting documentation, of such costs under this Subparagraph at the time it submits such costs for payment by Contractor. However, County shall be entitled to the actual costs of goods, Services, and/or other work provided under this Subparagraph in an emergency situation(s). Contractor shall promptly reimburse County for such County costs, as determined by County, or County may deduct all such additional costs from any amounts due to Contractor from County, whether under this Contract or otherwise.

8.30.3 In the event of any dispute between the parties with respect to this Contract, Contractor and County shall submit the matter to their

respective Program Managers for the purpose of endeavoring to resolve such dispute.

8.30.4 In the event that the Program Managers are unable to resolve the dispute within a reasonable time not to exceed five (5) Business Days from the date of submission of the dispute to them, then the matter shall immediately be submitted to the parties' respective Program Directors for further consideration and discussion to attempt to resolve the dispute.

8.30.5 In the event that the Program Directors are unable to resolve the dispute within a reasonable time not to exceed five (5) Business Days from the date of submission of the dispute to them, then the matter shall immediately be submitted to Contractor's Sales Vice President and to County's Director for further consideration and discussion to attempt to resolve the dispute.

8.30.6 In the event that Contractor's Sales Vice President and County's Director are unable to resolve the dispute within a reasonable time not to exceed ten (10) Business Days from the date of submission of the dispute to them, then each party may assert its other rights and remedies provided under this Contract and/or its rights and remedies as provided by law.

8.30.7 All disputes utilizing this dispute resolution procedure shall be documented in writing by each party and shall state the specifics of each alleged dispute and all actions taken. The parties shall act in good faith to resolve all disputes. At all levels described in this Paragraph 8.30, the efforts to resolve a dispute shall be undertaken by conference between the parties' respective representatives, either orally, by face-to-face meeting or by telephone, or in writing by exchange of correspondence.

8.30.8 Notwithstanding any other provision of this Contract, County's right to terminate this Contract pursuant to Paragraph 8.44 (Termination for Insolvency), Paragraph 8.42 (Termination for Default), or any other termination provision hereunder, and either party's right to seek injunctive relief to enforce the provisions of Paragraph 7.15 (Confidentiality), and Contractor's right to terminate this Contract pursuant to Subparagraph 8.42.6 of Paragraph 8.42 (Termination for Default), shall not be subject to this dispute resolution procedure.

8.31 Notice to Employees Regarding the Federal Earned Income Credit

Contractor shall notify its employees, and shall require each Subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

8.32 Notice to Employees Regarding the Safely Surrendered Baby Law

Contractor shall notify and provide to its employees, and shall require each Subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit I (Safely Surrendered Baby Law) of this Contract and is also available on the Internet at www.babysafela.org for printing purposes.

8.33 Notices

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered to the other Party, (i) in person, (ii) by certified mail, return receipt requested, postage prepaid (iii) by traceable overnight delivery, or (iv) by facsimile, electronically confirmed and followed immediately by U.S. Mail. Notice will be effective upon delivery and addressed to the parties as identified in Exhibit E (County's Administration) and Exhibit F (Contractor's Administration). Addresses may be changed by either party giving ten (10) Business Days prior written notice thereof to the other party. The Director or his/her designee shall have the authority to issue all notices or demands required or permitted by County under this Contract.

8.34 Prohibition Against Inducement or Persuasion

Notwithstanding any provision hereof to the contrary, Contractor and County agree that, during the term of this Contract and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

8.35 Public Records Act

8.35.1 Any documents submitted by Contractor become a matter of public record and shall be regarded as public records. All information obtained in connection with County's right to audit and inspect Contractor's documents, books, and accounting records pursuant to Paragraph 8.37 (Record Retention and Inspection/Audit Settlement) of this Contract; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process for this Contract, become the exclusive property of County and become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

8.35.2 In the event County is required by request of Contractor to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential", or "proprietary", Contractor agrees to defend and indemnify County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

8.36 Publicity

8.36.1 Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing Contractor's need to identify its services and related clients to sustain itself, County shall not inhibit Contractor from publishing its role under this Contract within the following conditions:

- Contractor shall develop all publicity material in a professional manner; and
- During the term of this Contract, Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of County without the prior written consent of County's Project Director.

8.36.2 Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Contract with the County of Los Angeles, provided that the requirements of this Paragraph 8.36 shall apply.

8.36.3 Each party agrees not to display or use, in advertising or otherwise, any of the other party's trade names, logos, trademarks, service marks or other indicia of origin without the other party's prior written consent, which consent may be revoked at any time by notice.

8.37 Record Retention and Inspection/Audit Settlement

Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that upon reasonable prior notice to Contractor, County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record reasonably relating to this Contract provided such access rights do not constitute an unlawful invasion of privacy rights of any Contractor employee and would not in the reasonable opinion of

Contractor subject Contractor to legal liability. Such requests for audit shall be reasonable in number. Should the audit be performed by a non-County entity or should a non-County entity be requested by County to review information received pursuant to an audit under this Paragraph, Contractor may require the non-County examiner/auditor to execute a Nondisclosure Agreement prior to any disclosure. The Nondisclosure Agreement shall limit the non-County entity's use of information received or reviewed in connection with the audit to work performed specifically for County. All such material, including, but not limited to, all financial records, timecards and other time and employment records, and proprietary data and information, shall be kept and maintained by Contractor and shall be made available to County in the form and format maintained by Contractor during the term of this Contract and for a period of five (5) years thereafter unless County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at Contractor's option, Contractor shall provide the materials in Los Angeles County or pay County for travel, per diem, and other costs incurred by County to examine, audit, excerpt, copy, or transcribe such material at such other location.

8.37.1 In the event that an audit of Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by Contractor or otherwise, then Contractor shall file a copy of such audit report with County's Auditor-Controller within thirty (30) days of Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. Subject to applicable law, County shall maintain the confidentiality of such audit report(s) consistent with Paragraph 7.15 (Confidentiality) above.

8.37.2 A material failure on the part of Contractor to comply with any of the provisions of this Paragraph 8.37 shall constitute a material breach of this Contract upon which, if not cured by Contractor as allowed in Paragraph 8.42 (Termination for Default) below, County may terminate or suspend this Contract, in its sole discretion.

8.37.3 If, at any time during the term of this Contract or within five (5) years after the expiration or termination of this Contract, representatives of County conduct an audit of Contractor limited to work performed under this Contract, and if such audit finds that County's dollar liability for any such work is less than payments made by County to Contractor, then the difference shall be either: a) repaid by Contractor to County by cash payment upon demand or b) at the sole option of County's Auditor-Controller, deducted from any amounts due to Contractor from County, whether under this Contract or otherwise. Notwithstanding the foregoing, in the event Contractor disagrees with the audit findings, Contractor may commence the dispute resolution process under Paragraph 8.30 (Dispute Resolution Procedure). Contractor may commence the dispute resolution after payment or deduction is made

for recovery of such payment or deduction. If such audit finds that County's dollar liability for such work is more than the payments made by County to Contractor, then the difference shall be paid to Contractor by County by cash payment. Such payment will include a one-half percent (.5% per month) (6% per annum) interest rate beginning from the date Contractor initiates the dispute resolution process. In no event shall County's maximum obligation for this Contract exceed the funds appropriated by County for the purpose of this Contract.

8.38 Recycled Bond Paper

Consistent with the Board's policy to reduce the amount of solid waste deposited at County landfills, Contractor agrees to use recycled-content paper to the maximum extent possible on this Contract.

8.39 Subcontracting

8.39.1 The requirements of this Contract may not be Subcontracted by Contractor without the advance approval of County. Any attempt by Contractor to Subcontract without the prior consent of County may be deemed a material breach of this Contract. Notwithstanding the foregoing, the requirements under this Paragraph 8.39 apply only to Subcontracted work that is specifically targeted and limited to functions under this Contract. County acknowledges and agrees that this Paragraph 8.39 does not apply to Contractor's Affiliates, or any other Subcontract that is entered into by Contractor for a purpose that is not specifically aimed at supporting this Contract.

8.39.2 If Contractor desires to Subcontract, Contractor shall provide the following information promptly at County's request:

- A description of the work to be performed by the Subcontractor;
- A draft copy of the proposed Subcontract; and
- Other pertinent information and/or certifications requested by County.

8.39.3 Contractor shall indemnify and hold County harmless with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were Contractor employees.

8.39.4 Contractor shall remain fully responsible for all performances required of it under this Contract, including those that Contractor has determined to Subcontract, notwithstanding County's approval of Contractor's proposed Subcontract.

8.39.5 County's consent to Subcontract shall not waive County's right as defined in this Contract relating to prior and continuing approval of personnel, including Subcontractor employees, providing Services under this Contract. Contractor is responsible to notify its Subcontractors of this County right. County's consent to Subcontract will not be unreasonably withheld or delayed.

8.39.6 County's Program Director is authorized to act for and on behalf of County with respect to approval of any Subcontract and Subcontractor employees.

8.39.7 Contractor shall be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest arising through Services performed hereunder, notwithstanding County's consent to Subcontract.

8.39.8 Contractor shall obtain certificates of insurance, which establish that the Subcontractor maintains all the programs of insurance required by County from each approved Subcontractor. Contractor shall ensure delivery of all such documents to:

Division Manager
Internal Services Contracting Division
1100 N. Eastern Avenue
Los Angeles, CA 90063

before any Subcontractor employee may perform any work hereunder.

8.40 Termination for Breach of Warranty to Maintain Compliance with County's Child Support Compliance Program

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 8.14 (Contractor's Warranty of Adherence to County's Child Support Compliance Program) shall constitute default under this Contract. Without limiting the rights and remedies available to County under any other provision of this Contract, failure of Contractor to cure such default within ninety (90) days of written notice shall be grounds upon which County may terminate this Contract pursuant to Paragraph 8.42 (Termination for Default) and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

8.41 Termination for Convenience

8.41.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes

effective shall be no less than thirty (30) days after the notice is sent, unless otherwise determined by County.

8.41.2 After receipt of a notice of termination and except as otherwise directed by County, Contractor shall:

- Stop work under this Contract on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.41.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of Contractor under this Contract shall be maintained by Contractor in accordance with Paragraph 8.37 (Record Retention and Inspection/Audit Settlement).

8.41.4 Should County terminate this Contract pursuant to this Paragraph 8.41, Contractor will compute termination charges according to the following provisions and render a bill to County, upon County's approval of such bill, County agrees to pay within sixty (60) days:

- (a) a pro rata reimbursement of any waived or amortized non-recurring charges for equipment and/or services to the extent identified in the relevant pricing document or Statement of Work;
- (b) a pro rata reimbursement of all sign-on bonuses;
- (c) Any charges incurred by Contractor from a third party (e.g., not a Contractor Affiliate) due to the termination, including but not limited to any termination charges assessed by the Local Access Provider, if County cancels, in whole or in part, any Local Access Service procured by Contractor on its behalf;

Without terminating this Contract, should County disconnect over fifty percent (50%) of total Service volumes of Exhibit A-1 (Statement of Work for Local Services), or of Exhibit A-2 (Statement of Work for Long Distance Services), Contractor shall have the right to raise rates for the impacted Statement of Work to levels consistent with and in no event higher than Contractor's current rates for similarly situated customers with similar volumes. The preceding sentence does not apply to the extent County migrates the disconnected Services to Services provided under Exhibit A-3 (Statement of Work for Managed IP Services).

8.42 Termination for Default

8.42.1 County may, by written notice to Contractor, terminate the whole or any part of this Contract if Contractor fails to perform or provide any material Service including any task, deliverable or other work required,

(i) within the times specified in this Contract including the applicable notice and/or cure periods, if any, (if no cure period is specified elsewhere in this Contract for a particular Service, Contractor shall have thirty (30) days to cure) prior to termination under this Subparagraph 8.42.1, or (ii) any authorized extensions thereof (provided that nothing in this Subparagraph 8.42.1 shall in any way limit or modify any rights of County or obligations of Contractor relating to timely performance by Contractor as otherwise set forth in this Contract).

8.42.2 In the event that County terminates this Contract in whole or in part as provided in Subparagraph 8.42.1, County may procure, upon such terms and in such manner as County may deem appropriate, goods and Services similar to those so terminated. Contractor shall be liable to County for any and all excess costs incurred by County, as determined by County, for such similar goods and Services. The cost incurred by County shall not exceed fair market cost of goods, Services, and/or other work being terminated. County shall provide Contractor with supporting documentation, limited to invoices, of such costs under this Subparagraph at the time it submits such costs for payment by Contractor. County shall be entitled to excess cost incurred by County based on the actual cost of goods, Services, and/or other work provided under this Paragraph 8.42 in an emergency situation(s), or if suitable goods, Services, and/or other work are not otherwise reasonably available, as determined by County. Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this Paragraph 8.42.

8.42.3 Except with respect to defaults of any Subcontractor, Contractor shall not be liable for any such excess costs of the type identified in Subparagraph 8.42.2 if its failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of County in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, war, terrorism, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both Contractor and Subcontractor, and without the fault or negligence of either of them, Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or Services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule. As used in this Subparagraph 8.42.3, the terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) at any tier. Any delay resulting from a force majeure event shall extend

Contractor's performance period by a term equal to the time lost by reason of the force majeure.

8.42.4 If, after County has given notice of termination under the provisions of this Paragraph 8.42, it is determined by County that Contractor was not in default under the provisions of this Paragraph 8.42, or that the default was excusable under the provisions of Subparagraph 8.42.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 8.41 (Termination for Convenience).

8.42.5 The rights and remedies of County provided in this Paragraph 8.42 shall not be exclusive and are in addition to any other rights and remedies of County provided by law or under this Contract.

8.42.6 The Contractor may terminate the whole or any part of this Contract in the event of the occurrence of any of the following:

- Upon thirty (30) days written notice if County fails to perform or observe any material term or condition of the Contract, including but not limited to the payment of undisputed amounts due for Services provided by Contractor hereunder, and such failure is not remedied within ninety (90) days (three (3) billing cycles) of County's receipt of Contractor's written notice.
- Contractor may terminate or suspend an affected Service, and not the entire suite of Services, twelve (12) hours following written notice to County and confirmed acknowledgement of such notice by an authorized representative of the County if (i) the affected Service is used for an unlawful purpose based upon a judicial determination, or (ii) County's use of the affected Service causes immediate, serious, and substantial harm or damage to Contractor's network or affected Service. At the request of County, Contractor will meet with County during the twelve (12) hour period to discuss the affected Service prior to termination or suspension of Service.
- The rights and remedies of Contractor provided in this Paragraph 8.42 shall not be exclusive and are in addition to any other rights and remedies of Contractor provided by law or under this Contract.

8.43 Termination for Improper Consideration

8.43.1 County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Contract if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment, or extension of this Contract or the making of any determinations with respect to

Contractor's performance pursuant to this Contract. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

8.43.2 Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

8.43.3 Among other items, such improper consideration may take the form of cash, discounts, Service, the provision of travel or entertainment, or tangible gifts.

8.43.4 If, after County has given notice of termination under the provisions of this Paragraph 8.43, it is determined by County or a court of competent jurisdiction that the Contractor was not in default under the provisions of this Paragraph 8.43, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 8.41 (Termination for Convenience).

8.44 Termination for Insolvency

8.44.1 County may terminate this Contract forthwith in the event of the occurrence of any of the following:

- Insolvency of Contractor. Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;
- The filing of a voluntary or involuntary petition regarding Contractor under the Federal Bankruptcy Code;
- The appointment of a receiver or trustee for Contractor; or
- The execution by Contractor of a general assignment for the benefit of creditors.

8.44.2 The rights and remedies of County provided in this Paragraph 8.44 shall not be exclusive and are in addition to any other rights and remedies of County provided by law or under this Contract.

8.45 Termination for Non-Adherence of County Lobbyist Ordinance

Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by Contractor, shall fully comply with County's Lobbyist Ordinance (County Code Chapter 2.160). Failure on the part of Contractor or any County Lobbyist or County Lobbying firm retained by Contractor to fully comply with County's Lobbyist Ordinance shall constitute a material breach of this Contract, upon which County may in its sole discretion, immediately terminate or suspend this Contract.

8.46 Termination for Non-Appropriation of Funds

Notwithstanding any other provision of this Contract, County shall not be obligated for Contractor's performance hereunder or by any provision of this Contract during any of County's future fiscal years unless and until the Board appropriates funds for this Contract in County's Budget for each such future fiscal year. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30 of the last fiscal year for which funds were appropriated. County shall notify Contractor in writing of any such non-allocation of funds at the earliest possible date, but in no event less than ten (10) Business Days prior to the termination date. County will remain responsible for all Services provided up to the termination date and shall be responsible for a pro rata reimbursement to Contractor of any waived or amortized non-recurring charges for equipment and/or services to the extent identified in the relevant pricing document or Statement of Work and charges incurred by Contractor from a third party, not a Contractor Affiliate, due to the termination, including but not limited to any termination charges assessed by the Local Access Provider for any Local Access Service procured by Contractor on County's behalf.

8.47 Contractor's Obligations Upon Termination

In the event of termination of this Contract, Contractor shall, except as set forth below, continue to be obligated to provide Services to County and support any hardware and software in accordance with the terms of this Contract until County transitions such services to an alternate service provider, within a reasonable transition period not to exceed eighteen (18) months. Notwithstanding the preceding sentence, in the event County terminates this Contract pursuant to Paragraph 8.41 (Termination for Convenience); the transition period under this Paragraph shall not exceed nine (9) months. During the transition period, County shall exercise best efforts to transition Service to the alternate carrier and/or alternate serving arrangement as quickly as is reasonably feasible and shall limit new orders for Service to adds, moves or changes at existing County locations.

Contractor's obligation to provide Service during the transition period is conditioned on the County's payment of all amounts due under this Contract. Contractor retains the right to withhold or limit Service to County if County fails to pay undisputed amounts due in ninety (90) days after termination for

Service provided prior to the termination or fails to pay in ninety (90) days the undisputed amounts due for Services rendered during the transition period.

During the transition period, Contractor shall continue providing Service at the Service Levels and rates in effect at the termination of the Contract, provided, however, that once fifty percent (50%) of the volume of Service in place at the termination of the Contract has been transitioned off the Contract, Contractor shall, in its sole discretion, determine the most reasonable means in which to support the Services remaining on the Contract. The required employee and administrative support set forth in Paragraph 7.0 (Administration of Contract - Contractor) of the Contract may be modified by Contractor as the volume of Service remaining on the Contract reduces during the Transition Term.

At a point in which the volume of Service provided under this Contract is less than fifty percent (50%) of the volume in place at the commencement of transition period, the Parties shall meet in good faith to modify the Service Levels for the remaining Services to ensure reasonable service standards for County and reasonable measurement metrics for Contractor.

Upon the conclusion of the transition period, all Service under this Contract shall either be disconnected or shall be provided by Contractor to County at Contractor's then-current tariff or generally available rates. No additional transition support will be required of Contractor.

8.48 Validity

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

8.49 Waiver

No waiver by either party of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of either party to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Paragraph 8.48 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.50 Warranty Against Contingent Fees

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

8.50.2 For breach of this warranty, County shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract Price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.51 Performance Bond

Contractor shall furnish to County, at Contractor's sole expense, within ten (10) Business Days of the Effective Date of this Contract, a performance bond in the amount of One Million Dollars (\$1,000,000). Such performance bond shall be in form and substance satisfactory to County. Such bond, may be in the form of an annually renewable bond, and shall be maintained by Contractor in full force and effect until released by County's Risk Manager upon County's Program Director's determination that Contractor shall have fully performed all of its obligations under this Contract. Any modification, extension, or termination of this Contract shall in no way release Contractor or any of its sureties from any of their obligations under such performance bond. Such bond shall contain a waiver of notice of any Change Notices and Amendments to this Contract.

Without excusing any default under Paragraph 8.42 (Termination for Default), no payments shall be due Contractor until the applicable performance bond is in place and approved in writing by County's Risk Manager. Such bond shall be made payable to County of Los Angeles, and shall be issued by a corporate surety licensed to do business in the State of California and satisfactory to County. The Contract number and dates of performance shall be specified in each performance bond.

Such performance bond shall secure Contractor's performance, including, without limitation, performing Services in accordance with the SOW and providing all of the deliverables, and shall secure any damages, costs or expenses resulting from Contractor's default in performance hereunder.

In the event of termination under Paragraph 8.42 (Termination for Default), such performance bond shall become payable to County for any outstanding damage assessments made by County against Contractor. An amount up to the full amount of such bond may also be applied to Contractor's liability for any administrative costs and/or excess costs incurred by County in obtaining similar Services, hardware and software to replace those terminated as a result of Contractor's default. In addition, upon such a termination, County may seek any other remedies permitted under this Contract or under applicable law.

At its sole option, County may accept certificates of deposit, cash deposits, United States government securities, or irrevocable letters of credit in lieu of commercial bonds to meet this provision. Such alternate forms of surety shall be made payable to County of Los Angeles and shall be deposited with:

Division Manager
Internal Services Contracting Division
1100 N. Eastern Avenue
Los Angeles, CA 90063

County shall have no responsibility to Contractor to pay interest on any such deposit, and any loss by reason of the failure of any institution issuing such collateral shall be solely the responsibility of Contractor.

Prior to acceptance of Contractor's performance bond, Contractor shall submit to County the form of such proposed performance bond or alternative security for approval by County's Risk Manager or Treasurer and Tax Collector, as applicable, as determined by County. Both the initial expense and the renewal premiums on the bond shall be at the expense of and shall be timely paid by Contractor.

Failure on the part of Contractor to procure and maintain all of the required insurance and the performance bond shall constitute a material breach of this Contract upon which County may terminate this Contract pursuant to Paragraph 8.42 (Termination for Default).

8.52 Transition Services

Prior to the expiration or termination of this Contract, Contractor shall work with County to transition the Services of the Contract to County or to County's successor contractor. The transition of the Services shall include, at a minimum, the procedures, schedules, and deliverables required for transition of each Service, the responsibilities of the parties, and provision of and payment for Services which may be necessary but which are outside the scope of this Contract.

9.0 ADDITIONAL TERMS AND CONDITIONS

9.1 Contractor's Obligations as a "Contractor" Under Health Insurance Portability & Accountability Act of 1996 (HIPAA)

County is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under this Contract, Contractor provides Services to County and may receive, have access to, and/or create Protected Health Information as defined in Exhibit J (Contractor's Obligations Under Health Insurance Portability & Accountability Act of 1996 (HIPAA)) in order to provide a portion those Services. County and the Contractor therefore agree to be bound by the terms of Exhibit J (Contractor's Obligations Under Health Insurance Portability & Accountability Act of 1996 (HIPAA)) only for those portions, if any, of the Services provided hereunder that actually causes Contractor to receive, have access to and/or create Protected Health Information, and by executing this Contract, Contractor shall be deemed to have executed Exhibit J (Contractor's

Obligations Under Health Insurance Portability & Accountability Act of 1996 (HIPAA)).

9.2 Ownership of Materials, Software and Copyright

9.2.1 Contractor Provided, Non-Customized Materials and Software

Contractor shall be the sole owner of all right, title and interest, including copyright, in and to all software, plans, diagrams, facilities, and tools (hereafter "Materials") that are provided by Contractor and used to provide Services to County under this Contract. For any software, Contractor grants County, for no additional consideration, a personal, non-transferable and non-exclusive license (without the right to sublicense) to use software, in object code form, solely in connection with the Service(s) for which the software is provided and solely in accordance with applicable written and electronic documentation. Any software used with the Service(s) will be governed by the written terms and conditions applicable to such software. Title to software remains with Contractor or its supplier. County shall comply with all such terms and conditions and they take precedence over this Contract.

9.2.2 Contractor Developed Materials and Software Created for County's Unique and/or Customized Applications

County shall be the sole and exclusive owner of all right, title and interest, including copyright, in and to all unique and/or customized Materials that are expressly developed by Contractor under this Contract for the exclusive benefit of County. Contractor, for valuable consideration herein provided, shall execute all documents necessary to assign and transfer to, and vest in County all of Contractor's right, title and interest in and to such original materials, including any copyright, patent and trade secret rights which arise pursuant to Contractor's work under this Contract.

Contractor developed Materials to which the County shall be the sole and exclusive owner of all right, title and interest, including copyright, include, but are not limited to, the following, except for Contractor's pre-existing intellectual property included in such Materials:

For the County's network: all Contractor developed network drawings, procedures, router configurations, and reports for County owned routers and switches.

For the County's planned VoIP environment: all Contractor developed drawings, procedures, server scripts, reports, and router, switch, and gateway configurations.

For the County's IPCC: any Contractor developed call flow programming, IVR scripts and recordings, and special custom reporting.

9.2.3 County Provided Materials and Software

County shall be the sole owner of all right, title and interest, including copyright, in and to all Materials that County provides to Contractor to enable Contractor to perform its Services. For any software, County grants Contractor, for no additional consideration, a personal, non-transferable and non-exclusive license (without the right to sublicense) to use all software, in object code form, solely in connection with the Service(s) for which the software is provided and solely in accordance with applicable written and electronic documentation. Any software used with the Service(s) will be governed by the written terms and conditions applicable to such software. Title to software remains with County. Contractor shall comply with all such terms and conditions and they take precedence over this Contract.

County owned software includes, but is not limited to the following pre-existing items: the VoIP operating system software, call center software, and recording software.

9.2.4 During the term of this Contract and for five (5) years thereafter, Contractor shall maintain and provide security for all of Contractor's working papers prepared under this Contract related to developed materials and software created for County's unique and/or customized applications. County shall have the right to inspect, copy and use upon reasonable advance notice during and for a five year period subsequent to the term of this Contract. Contractor shall assist County in accessing and understanding all data provided by Contractor.

9.2.5 Any and all materials, software and tools which are developed or were originally acquired by Contractor or County outside the scope of this Contract, which Contractor or County desires to use hereunder, and which Contractor or County considers to be proprietary or confidential, shall be specifically identified by Contractor or County to the other party 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.

9.2.6 Both parties will use reasonable means consistent with Paragraph 7.15 (Confidentiality) above to ensure that proprietary and/or confidential items of the other party are safeguarded and held in confidence. Both parties agree not to reproduce, distribute or disclose to third party entities any such proprietary and/or confidential items without the prior written consent of the other party.

- 9.2.7 Notwithstanding any other provision of this Contract, the receiving party will not be obligated to disclosing party in any way under Subparagraph 9.2.6 for any of the disclosing party's proprietary and/or confidential items which are not plainly and prominently marked with restrictive legends as required by Subparagraph 9.2.5 or for any disclosure which either party is required to make under any state or federal law or order of court.
- 9.2.8 All the rights and obligations of this Paragraph 9.2 shall survive the expiration or termination of this Contract.
- 9.2.9 Services may include use of certain equipment owned by Contractor that is located at a County location (hereinafter "Contractor Equipment"), but title to the Contractor Equipment will remain with Contractor. County will bear the risk of loss or damage to Contractor Equipment only to the extent caused by County's negligence or willful misconduct.
- 9.2.10 County has absolute ownership of any and all data associated with Contractor's services provided to County that is expressly developed under the Contract for the sole and exclusive use of County, excluding Contractor's pre-existing intellectual property included in such data and data determined to be Contractor's proprietary data. County will use its access to data under Subparagraph 9.2.4 for the purpose of overseeing the administration and operation of Contractor's services and will take all reasonable measures to ensure protection of Contractor's proprietary rights. This County-owned data includes, but is not intended to be limited to, the following, excluding Contractor's pre-existing intellectual property included in such data and data determined to be Contractor's proprietary data:

- All circuit and services inventory data
- Status and performance data concerning any system resources used in the provision of services
- Status and performance data concerning the timely delivery of services to County locations
- Billing data concerning the delivery of Contractor services

Training materials and job aids developed specifically for County and their services.

All data shall be provided to County upon request by County's Program Manager. Contractor shall provide the most current data available, and agree to work with, any subsequent Contractor to provide the same, or similar, services to County at the conclusion/termination of the Contract.

9.3 Patent, Copyright and Trade Secret Indemnification

9.3.1 Contractor shall indemnify, hold harmless and defend County from and against any and all third party claims and related liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from the operation and utilization of Contractor's work under this Contract. Contractor's obligation to defend and indemnify County is contingent upon (i) County providing Contractor prompt written notice of any claim; and (ii) County providing Contractor all reasonable information and assistance requested by the Contractor to settle, defend, or bring a countersuit in conjunction with any claim.

9.3.2 In the event any equipment, part thereof, or software product becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that County's continued use of such item is formally restrained or enjoined, or subjected to a claim for damages, Contractor, at its sole expense, and providing that County's continued use of the system is not materially impeded, shall either:

- Procure for County all rights to continued use of the questioned equipment, part, or software product; or
- Replace the questioned equipment, part, or software product with a non-questioned item; or
- Modify the questioned equipment, part, or software so that it is free of claims.
- Terminate the infringing equipment, part or software product, and refund to County all amounts paid for such infringing item.

9.3.3 Contractor shall have no liability to indemnify, hold harmless and defend County under this Paragraph 9.3 if the alleged infringement or unauthorized disclosure is based upon (i) a use of the questioned product, either alone or in combination with other items not supplied by Contractor, in a manner for which the questioned product was not designed nor intended, (ii) County's content, (iii) Contractor's adherence to County's written requirements, or (iv) use of the Service by County in violation of this Contract.

9.3.4 County will indemnify and defend Contractor its directors, officers, employees, agents, and their successors from and against any and all third party claims and related liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from improper use of Services or information or any content or data transmitted over any

Contractor network or facilities. County's obligation to defend and indemnify Contractor is contingent upon (i) Contractor providing County prompt written notice of any claim; and (ii) Contractor providing County all reasonable information and assistance requested by County to settle, defend, or bring a countersuit in conjunction with any claim.

9.4 Limitation of Liability

9.4.1 Neither party shall be liable to the other for any indirect, incidental, punitive, exemplary, special, or consequential damages (including without limitation, damages related to lost profits, revenue or increased cost of operations) arising under this Contract, regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and regardless of whether or not such damages are foreseen or unforeseen. The total aggregate liability of the Contractor, its suppliers, licensors, affiliates, directors, officers, and/or employees under or in connection with this Contract to County not to exceed per claim (or in the aggregate during any twelve (12) month period) an amount equal to the total charges paid by County for all Services during the twelve months preceding the month in which the event giving rise to the claim occurred. In the event there is less than a twelve (12) month period, then the period will be annualized for the full twelve (12) months.

9.4.2 The per claim or aggregate twelve (12) month limitations described in the preceding paragraph will not apply to:

- (i) bodily injury, death or damage to real or tangible property directly caused by a party's negligent or wrongful acts and/or omissions arising from and/or relating to this Contract;
- (ii) breach of Paragraph 7.15 (Confidentiality) and Paragraph 8.36 (Publicity);
- (iii) settlement, defense or payment obligations under Paragraph 8.22 (Indemnification) and Paragraph 9.3 (Patent, Copyright and Trade Secret Indemnification);
- (iv) damages arising from a party's willful misconduct.
- (v) alteration, loss or destruction of County's applications, content or data arising from Contractor's gross negligence or willful misconduct.

9.5 Access Rights

County will in a timely manner allow Contractor to access County-owned and controlled property and equipment as required to provide the Services. Access Rights include the right to construct, install, repair, maintain, replace and remove access lines and network facilities, as well as to use ancillary equipment space within a building, as necessary for County's connection to Contractor's network. County must provide Contractor timely information and access to County's facilities and equipment as Contractor reasonably

requires to provide the Services, subject to County's reasonable security policies. Unless otherwise set forth in this Contract, County will furnish any conduit, holes, wireways, wiring, plans, equipment, space, power/utilities, and other items reasonably required to perform installation of the Services, and obtain any necessary licenses, permits and consents (including easements and rights-of-way), consistent with California Public Utility Commission decisions defining the point at which the wiring under the control of the vendor ends, and the wiring under the control of the property owner begins (i.e., Minimum Point of Entry (MPOE) and Local Loop Demarcation Point (LLDP) rules). County will make the site ready for Contractor to perform its work according to a mutually agreed schedule.

In non-County controlled facilities (i.e., leased buildings), County is responsible for obtaining access and secure necessary space, power, alterations and wiring paths that are needed for the Contractor to provide the requested goods and services. Contractor will work cooperatively with County in support of County's efforts with the property owner.

9.6 Participating Entities

Contractor agrees to extend access to the Services provided under this Contract to "Participating Entities" (as defined below) as follows: (i) all Participating Entities ordering Services to be provisioned within the geographic boundaries of Los Angeles County will be offered all Services under the same basic terms as being offered to County, except those Services with unique distance sensitivities (e.g., Centrex) and/or non-standard customer installation/entrance facility requirements not covered by Contractor's established non-recurring charges which will be separately negotiated; (ii) all Participating Entities ordering Services within the State of California but outside the geographic boundaries of Los Angeles County will be offered Services at terms and conditions that will be separately negotiated; (iii) all Participating Entities shall agree to an acceptable length of term and commitment level for all Services requested; and (iv) all Services are subject to the availability of equipment and facilities (including outside plant, cable, capacity and memory). As used in this Paragraph, "Participating Entities" means any "local public entity" as that term is defined in California Government Code Section 900.4.

9.7 Resale of Services

County may not resell the Services to third parties without Contractor's written consent.

9.8 Internet Services

If a Service is provided over or accesses the Internet, County and all users of any such Services shall comply, in all material respects, with the AUP.

9.9 Warranty

Contractor hereby warrants to County that all Services provided by Contractor to County under this Contract shall conform to the Statements of Work and this Contract.

With regard to each and every piece of personal property purchased by County under this Contract, including any software or other intellectual property (the "Assets"), AT&T shall pass through to County, to the fullest extent permitted by law or agreement, any applicable hardware and/or software warranties offered by the manufacturer for such Assets.

Contractor further represents, warrants, covenants and agrees that:

- Contractor shall comply with the descriptions and representations set forth in Exhibit A (Statements of Work).
- All tasks, subtasks, Deliverables, Assets, goods, Services, and other work shall be performed in a timely and professional manner by qualified personnel.
- All tasks, subtasks, Deliverables, Assets, goods, Services, and other work shall be completed in accordance with this Contract and industry standards.
- All Services shall perform in accordance with this Contract and shall meet or exceed the functional and performance requirements set forth in this Contract.
- The Services shall be capable of interconnecting and/or interfacing with each other and County's Existing System and that the Services and Existing System, when taken together, shall be capable of delivering all Services as set forth in this Contract.

Contractor agrees, at no cost to County, to correct any and all Deficiencies in its Services. In the event that County determines that the Deficiency was caused by the County, County shall reimburse Contractor for its reasonable internal costs (excluding costs related to problem identification) to correct the Deficiencies. Except as specifically set forth in this Contract to the contrary, the Parties agree to resolve any disputes regarding provisioning of Services in accordance with Paragraph 8.30 (Dispute Resolution Procedure).

The process for monitoring compliance with the Statement of Work and credits for non-compliance are set forth in the PRS. Contractor acknowledges and agrees that the remedy and credits to be assessed pursuant to the PRS shall be payable to County upon demand and may, at County's sole option, be set off against any monies due to Contractor under

this Contract and are reasonable under the circumstances existing as of the date this Contract is entered into.

EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS CONTRACT, CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9.10 Withdrawal of Service

Notwithstanding that this Contract may commit Contractor to provide a Service to County for a specific term, unless applicable law or regulation mandates otherwise, Contractor may discontinue providing a Service upon twelve (12) months' notice, or a Service Component upon one hundred twenty (120) days' notice, but only where Contractor generally discontinues providing the Service or Service Component to similarly-situated customers and Contractor offers County an alternative solution that reasonably meets the service needs of County.

Notwithstanding the preceding, with regard to voice mail service, Contractor reserves the right to change the technology that provides voice mail services to County. Voice mail services to County shall not materially change based on any change in technology. Contractor shall notify County of any new proposed technology change one hundred twenty (120) days in advance, explain any such technology and identify the changes, if any, to County's voice mail services. The parties agree to negotiate in good faith in order to address the impact of the technology change, including migration scheduling and training for County employees.

9.11 No Third Party Beneficiaries

This Contract is for the benefit of County and Contractor, and does not provide any third party (including any third party users of Services provided hereunder) the right to enforce or bring an action for any remedy, claim, liability, reimbursement, cause of action or other right or privilege, other than as set forth in Paragraph 9.6 (Participating Entities).

9.12 Survival

The respective obligations of County and Contractor that by their nature would continue beyond the termination or expiration of this Contract, including without limitation, the obligations set forth in Paragraph 7.15 (Confidentiality), Paragraph 8.22 (Indemnification), Paragraph 8.37 (Record Retention and Inspection/Audit Settlement), Paragraph 9.1 (Contractor's Obligations Under Health Insurance Portability & Accountability Act of 1996 (HIPAA)), Paragraph 9.3 (Patent, Copyright and Trade Secret Indemnification), Paragraph 9.4 (Limitation of Liability), and this Paragraph 9.12, will survive termination or expiration.

9.13 Improper Use of Voice Mail

The name and reputation of Contractor are important corporate assets. Therefore, to the extent permitted by law Contractor will not allow on its voice mail service applications recorded content provided by customers which: violates laws, statutes or tariffs (including statements that are defamatory, fraudulent, or deceptive); are pornographic; or are harmful matter as defined in California Penal Code Section 313: "Matter, taken as a whole, which the average person, applying contemporary statewide standards, appeals to the prurient interest, and is matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, political or scientific value for minors". Contractor acknowledges that this Paragraph 9.13 places no obligation on County to monitor, check or otherwise supervise the use of voice mail service under this Contract, including but not limited to content provided by County employees or other authorized users of the service.

IN WITNESS WHEREOF, Contractor has executed this Contract, or caused it to be duly executed on its behalf by its authorized representative, and the County of Los Angeles, by order of its Board of Supervisors has caused this Contract to be executed on its behalf by the Chair of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof, the day and year first above written.

CONTRACTOR: [Signature]

By Robin MacGillivray
Name

Vice President, SBC Global Services, Inc.
dba AT&T Global Services
Title

COUNTY OF LOS ANGELES

By [Signature]
CHAIR, PRO TEM, BOARD OF SUPERVISORS

ATTEST:

SACHI HAMAI
Executive Officer-Clerk
of the Board of Supervisors

By [Signature]



ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

18

MAR 18 2008

[Signature]
SACHI A. HAMAI
EXECUTIVE OFFICER

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By [Signature]
Jose Silva
Principal Deputy County Counsel